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Rules and Regulations

Federal Register
Vol. 69, No. 142
Monday, July 26, 2004

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV04–916/917–02 FIR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting as a final rule, with a change, an interim final rule revising the handling requirements for California nectarines and peaches by reducing the minimum net weight for shipments of nectarines and peaches in bulk bins under the marketing orders. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule will enable packers to continue shipping fresh nectarines and peaches meeting customers' needs in the interests of producers, packers, and consumers of these fruits.

DATES: *Effective Date:* August 25, 2004.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California, 93721; telephone (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491; Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule in the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the revisions of the handling requirements for California nectarines and peaches by reducing the minimum net weight for shipments of nectarines and peaches in bulk bins under the marketing orders.

Under the orders, container and pack requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC), which are responsible for local administration of the orders, met on February 25, 2004, and unanimously recommended that the handling requirements be further revised for the 2004 season, which began in April. The committees unanimously recommended that the minimum net weight for loose-filled bulk bin containers be reduced from 400 pounds to 100 pounds, and that change continues in effect.

The committees meet prior to and during each season to review the rules and regulations effective on a continuing basis for California nectarines and peaches under the orders. Committee meetings are open to the public and interested persons are encouraged to express their views at these meetings. The committees held such meetings on February 25, 2004.

USDA reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

No official crop estimate was available at the time of the committees' February 25, 2004, meetings because the nectarine and peach trees were dormant. The committees subsequently recommended a crop estimate at their meetings on April 28, 2004. The estimates indicate that the 2004 nectarine crop will be approximately 22,245,000 containers, and the 2004 peach crop will be approximately 22,601,000 containers. This crop is similar to the 2003 crop, which totaled 21,896,300 containers of nectarines and 22,306,300 containers of peaches.

Container and Pack Requirements

Sections 916.52 and 917.41 of the orders authorize establishment of container, pack, and container marking requirements for shipments of nectarines and peaches, respectively. Under §§ 916.350 and 917.442 of the orders' rules and regulations, container markings, net weights, well-filled requirements, weight-count standards

for various sizes of nectarines and peaches, and standard containers for nectarines and peaches, respectively, are specified. Included in the container and pack requirements are minimum net weight requirements for several containers, such as the bulk bin.

Previously, the minimum net weight for bulk bin containers was 400 pounds. At the request of a handler, the committees unanimously recommended that the minimum net weight be reduced to 100 pounds for bulk bin containers of loose-filled nectarines and peaches.

The committees' recommendations resulted from a recommendation by the Tree Fruit Quality Subcommittee. At the subcommittee meeting on February 4, 2004, a handler requested that the current minimum net weight be reviewed and possibly modified. The handler noted that he had increased shipments of bulk peaches during the 2003 season, but found the minimum net weight of 400 pounds too restrictive because the weight of the fruit in the bin damages the contents, especially the peaches at the bottom of the bin. The handler suggested that a minimum weight of 200 pounds might serve the industry better by ensuring the safe arrival of the fruit.

The subcommittee discussed shipments of nectarines and peaches in bulk bins, and reviewed the historical significance of the minimum net weight of 400 pounds. The subcommittee determined that the net weight was set in 1976 when there were few, if any, bulk bin shipments.

The subcommittee also deliberated the relative value of different minimum weights; *e.g.* 125 pounds, 200 pounds, or 100 pounds. They determined that since the weight constituted a minimum net weight rather than maximum net weight, it was prudent to use a weight that was lighter than the previously established minimum net weight, but still heavy enough to constitute a bulk shipment. Because it would be difficult for a handler to pack a 100-pound box for anything other than a bulk bin shipment, the 100 minimum net weight was determined to be the optimum net weight and was unanimously recommended. The subcommittee further unanimously recommended that the 100-pound minimum net weight be in place for the 2004 season only, with a review of the success of the modification at the end of the season.

The committees discussed the Tree Fruit Quality subcommittee's recommendation at the February 25, 2004, meetings and reviewed the current industry practices regarding shipping in bulk bin containers. While use of bulk bins appears to be in its infancy, the committees appreciate that such shipments could constitute a new trend, and that relaxing the current minimum net weight for those containers provides yet another marketing opportunity for handlers. Moreover, the reduced minimum net weight will provide another container option for handlers and safeguard the fruit in the container from damage. However, the committees disagreed with the subcommittee's recommendation that the change should be in place for the 2004 season only, and did not believe it necessary to review the use of these containers at the end of the 2004 season.

For the reasons stated above, the committees recommended that the minimum net weight for loose-filled bulk bin containers of nectarines and peaches be decreased from 400 pounds to 100 pounds. That change continues in effect.

Nectarines: For the reasons stated above, the revision of paragraph (a)(9) of § 916.350 continues in effect to modify the minimum net weight of bulk bin containers of loose-filled nectarines from 400 pounds to 100 pounds. The required container markings shall be placed on one outside end of the container in plain sight and in plain letters.

Peaches: For the reasons stated above, the revision of paragraph (a)(10) of § 917.442 continues in effect to modify the minimum net weight of bulk bin containers of loose-filled peaches from 400 pounds to 100 pounds. The required container markings shall be placed on one outside end of the container in plain sight and in plain letters.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Industry Information

There are approximately 250 California nectarine and peach packers subject to regulation under the orders regulating nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. The Small Business Administration [13 CFR 121.201] defines small agricultural service firms as those whose annual receipts are less than $5,000,000. The Small Business Administration also defines small agricultural producers as those having annual receipts of less than $750,000. A majority of these packers and producers may be classified as small entities.

The committees' staff has estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. In the 2003 season, the average handler price received was $7.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 714,286 containers to have annual receipts of $5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2003 season, the committees' staff estimates that small handlers represent approximately 94 percent of all the handlers within the industry.

The committees' staff has also estimated that less than 20 percent of the producers in the industry could be defined as other than small entities. In the 2003 season, the average producer price received was $4.00 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 187,500 containers of nectarines and peaches to have annual receipts of $750,000. Given data maintained by the committees' staff and the average producer price received during the 2003 season, the committees' staff estimates that small producers represent more than 80 percent of the producers within the industry.

With an average producer price of $4.00 per container or container equivalent, and a combined packout of nectarines and peaches of 44,202,600 containers, the value of the 2003 packout value (total estimated grower revenue) is estimated to be $176,810,400. Dividing this total estimated grower revenue figure by the estimated number of producers (1,800) yields an estimated average revenue per producer of approximately $98,228 from the sales of nectarines and peaches.

Discussion of the Change in Minimum Net Weight

Under §§ 916.52 and 917.41 of the orders, pack and container requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. The NAC and PCC met on February 25, 2004, and unanimously recommended that the minimum net weight for loose-filled bulk bin containers be reduced from 400 to 100 pounds. This recommendation was presented to the committees by the Tree Fruit Quality Subcommittee after a thorough discussion at their February 4, 2004, meeting. A handler requested that the subcommittee review the current minimum net weight of bulk bin containers used for loose-filled shipments of nectarines and peaches.

The subcommittee discussed the historical significance of the current minimum net weight of 400 pounds and deliberated the relative value of recommending various lighter net weights, as well. They determined that the optimum net weight for bulk bin containers was 100 pounds. Until recently, they noted, there were few, if any, shipments of nectarines and peaches in bulk bins. However, changes in the industry, improvements in containers, shipments of increasingly more mature fruit, and the demands of their retail customers have apparently improved the prospects for such shipments.

In considering possible alternatives to this action, the subcommittee discussed varying minimum net weights, and the types and sizes of bulk bin containers currently available to the industry. While other alternatives were not rejected out of hand, the subcommittee reasoned that decreasing the current 400-pound minimum net weight to 100 pounds was a prudent option since the weight of the container constituted a minimum net weight, rather than a maximum net weight. Such a weight afforded increased protection of the fruit in the bin while providing increased flexibility for handlers who might want to experiment with varying weights, as their customers demanded. If a handler had customer requests for 125 pounds, that option would be available under the recommendations. If another handler had a request for 250 pounds, that option would also be available.

The committees agreed with the Tree Fruit Quality Subcommittee's recommendation, except for establishing a trial period during the 2004 season. The committees voted unanimously to establish the revised minimum net weight of 100 pounds for bulk bin containers without the requirement for a trial during the 2004 season or an industry review at the end of the season.

The committees make recommendations regarding all the revisions in handling requirements after considering all available information, including recommendations by various subcommittees, comments of persons at subcommittee and committee meetings, and comments received by committee staff. Such subcommittees include the Tree Fruit Quality and Research Subcommittees, and the Executive Committee.

At the meetings, the impact of and alternatives to these recommendations are deliberated. These subcommittees, like the committees themselves, frequently consist of individual producers and packers with many years' experience in the industry, who are familiar with industry practices and trends. Like all committee meetings, subcommittee meetings are open to the public and comments are widely solicited. In the case of the Tree Fruit Quality Subcommittee, many growers and handlers who are affected by the issues discussed by the subcommittee attend and actively participate in the public deliberations. In fact, if a specific producer or handler is known to have an interest in one or more topics to be discussed, committee staff specifically invites him or her to the meetings to participate in the debate and provide information not already available to staff and the subcommittee, including information which may refute the staff's findings. This recommendation, in fact, resulted from a request made by a handler who was specifically invited by staff to take his concerns to the Tree Fruit Quality Subcommittee.

In addition, minutes of all subcommittee and committee meetings are distributed to committee members and others who have requested them, thereby increasing the availability of information within the industry. The staff has surveyed committee members and others in the industry to determine each person's preference in receiving committee communications. Each person was given the opportunity to specify how he or she would like meeting agendas and other committee communications to be delivered: facsimile, electronic mail, and/or mailed hard copy. The staff is also preparing to make meeting minutes available on the committees' Web site, as well, where meeting agendas are currently available.

This rule does not impose any additional reporting and recordkeeping requirements on either small or large packers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

In addition, the committees' meetings are widely publicized throughout the nectarine and peach industry and all interested parties are encouraged to attend and participate in committee deliberations on all issues. These meetings are held annually during the fall, late winter, and early spring. Like all committee meetings, the February 25, 2004, meetings were public meetings, and all entities, large and small, were encouraged to express views on these issues. These regulations were also reviewed and thoroughly discussed at a subcommittee meeting held on February 4, 2004.

An interim final rule concerning this action was published in the **Federal Register** on April 14, 2004. Copies of the rule were provided to interested parties through the committees' Web site and through the Internet by USDA and the Office of the **Federal Register**. That rule provided for a 60-day comment period which ended June 14, 2004. One comment was received.

The commenter stated that the revisions to the handling requirements for nectarines and peaches grown in California as presented in the interim final rule will allow handlers to better serve their buyers.

He also asked that an exception for blush or red color for U.S. No. 1 nectarines currently permitted under the marketing order handling regulations be removed. According to the comment, recent revisions to § 51.3147 of the U.S. Standards for Grades of Nectarines (69 FR 9189, February 27, 2004) have eliminated the color requirement for U.S. No. 1 nectarines, making the exception in the nectarine marketing order regulations obsolete. For that reason, the exception in paragraph (a)(1) of § 916.356 will be removed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following Web site: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that finalizing the interim final

rule, with a change, as published in the **Federal Register** (69 FR 19753, April 14, 2004) will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

PART 916—NECTARINES GROWN IN CALIFORNIA

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR parts 916 and 917, which was published at 69 FR 19753 on April 14, 2004, is adopted as a final rule with the following change to 7 CFR part 916:

■ 1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 916.356, paragraph (a)(1), the introductory text is revised to read as follows:

§ 916.356 California Nectarine Grade and Size Regulation.

(a) * * *

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided*, That nectarines 2 inches in diameter or smaller, shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle 3/8 inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle 1/2 inch in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: *Provided further*, That during the period April 1 through October 31, 2004, any handler may handle nectarines if such nectarines meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 40 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Nectarines; and that such nectarines are mature and are:

* * * * *

Dated: July 21, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–16940 Filed 7–23–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 983

[Docket No. FV02–983–1 FR]

Pistachios Grown in California; Delay of the Effective Date for Aflatoxin, Size and Quality Requirements

AGENCY: Agriculture Marketing Service, USDA.

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the effective date for aflatoxin, size and quality requirements established under Marketing Order No. 983 (order). The order regulates the handling of pistachios produced in California. Sections 983.38 through 983.46 of the order establish maximum aflatoxin along with minimum size and quality requirements for California pistachios. The delayed effective date was requested by members of the California pistachio industry. Postponing the effective date of the regulations will provide pistachio handlers with preparation time needed to meet the aflatoxin, size and quality requirements of the order.

DATES: The effective date for §§ 983.38 through 983.46 is delayed from August 1, 2004, to February 1, 2005.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 1035, Moab, Utah 84532; telephone: (435) 259–7988, Fax: (435) 259–4945; or Rose Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This document delays the effective date from August 1, 2004, to February 1, 2005, for aflatoxin, size and quality provisions established under Marketing Order No. 983 (order) (69 FR 17844, April 5, 2004). The order, which became effective in April 2004, regulates the handling of pistachios produced in California. Sections 983.38 through 983.46 of the order establish maximum aflatoxin along with minimum size and quality requirements for California pistachios, and were scheduled to become effective on August 1, 2004. The delay was requested by members of the California pistachio industry. Postponing the effective date of the aflatoxin, size and quality requirements will provide pistachio handlers with preparation time needed to comply with these requirements. For example, additional time is needed for handlers to arrange for accredited laboratories to test their pistachios and certify that they meet the order's aflatoxin requirements.

In addition, administrative rules and regulations needed to implement the program (for example, handler reporting requirements) have not been established. These should be considered and recommended by the committee established to locally administer the order. The committee is in the process of being appointed by the Department. Postponing the effective date of the order's regulatory provisions would allow the new committee time to become established and actively participate in implementing the order.

Thus, the effective date of §§ 983.38 through 983.46 should be delayed until February 1, 2005. A 6-month delay should provide adequate time for pistachio handlers to prepare to meet the aflatoxin, size and quality requirements. It should also allow sufficient time for an administrative committee to be appointed and recommend any implementing rules and regulations deemed necessary.

List of Subjects in 7 CFR Part 983

Marketing agreements, Pistachios, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: July 21, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–16941 Filed 7–23–04; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

[Docket No. 04–11579]

RIN 3245–AE66

Small Business Size Regulations; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains a correction to the final rule that appeared in the **Federal Register** of May 24, 2004 (69 FR 29411). The final rule amended the regulations that governed the Historically Underutilized Business Zone (HUBZone) Program. The corrected provision concerns who may initiate a size protest or initiate a size determination.

DATES: Effective June 23, 2004.

FOR FURTHER INFORMATION CONTACT: Michael P. McHale, Associate Administrator for the HUBZone Program, (202) 205–8885 or by e-mail, at *hubzone@sba.gov.*

SUPPLEMENTARY INFORMATION: The final rule that is the subject of this correction amends the regulations that governed the Historically Underutilized Business Zone (HUBZone) Program published on May 24, 2004 (69 FR 29411). This document corrects the numbering of a section of the final regulation. Confusion was caused by another amendment to the relevant section by a final rule amending certain definitions and making procedural and technical amendments to several SBA programs published on May 21, 2004 (69 FR 29192). The rule revised is § 121.1001(b)(7–8). Who may initiate a size protest or request a formal size determination?

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Load programs—business, Small businesses.

■ Accordingly, 13 CFR part 121 is corrected by making the following correcting amendment:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority section for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 636(b), 637(a), 644(c) and 662(5); Sec. 304, Pub. L., 103–403, 108 Stat. 4175, 4188; Pub. L. 105–135 sec 601 *et seq.*, 111 Stat. 2592; Pub. L. 106–24, 113 Stat. 39.

■ 2. Amend § 121.1001 by revising paragraphs (b)(7) and (8) and removing the paragraph (b)(7) published at 69 FR 29411, May 24, 2004, to read as follows:

§ 121.1001 Who may initiate a size protest or request a formal size determination?

* * * * *

(b) * * *

(7) In connection with initial or continued eligibility for the Small Disadvantaged Business (SDB) program, the following may request a formal size determination:

(i) The applicant or SDB concern; or

(ii) The Assistant Administrator of the Division of Program Certification and Eligibility or the Associate Administrator for 8(a)BD.

(8) In connection with initial or continued eligibility for the HUBZone program, the following may request a formal size determination:

(i) The applicant or qualified HUBZone business concern; or

(ii) The Associate Administrator for the HUBZone program, or designee.

* * * * *

Dated: June 24, 2004.

Allegra F. McCullough,

Associate Deputy Administrator for Government Contracting and Business Development.

[FR Doc. 04–16883 Filed 7–23–04; 8:45 am]

BILLING CODE 8025–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA302–0463; FRL–7788–5]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the South Coast Air Quality Management District portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on May 21, 2004, and concern oxides of nitrogen (NO_X) and oxides of sulfur (SO_X) emissions from facilities emitting 4 tons or more per year of NO_X and/or SO_X in the year 1990 or any subsequent year. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on August 25, 2004.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765–4182.

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Thomas C. Canaday, EPA Region IX, (415) 947–4121, *canaday.tom@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On May 21, 2004 (69 FR 29250), EPA proposed to approve the following rules into the California SIP.

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD	2007	Trading Requirements	12/05/03	02/20/04
SCAQMD	2011	Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions.	12/05/03	02/20/04
SCAQMD	2012	Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions.	12/05/03	02/20/04

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period we received no comments on our proposed action.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 6, 2004.

Alexis Strauss,

Acting Regional Administrator, Region IX.

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(329) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(329) Amended regulations for the following APCDs were submitted on February 20, 2004, by the Governor's Designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rules 2007, 2011 including protocol for Rule 2011, and 2012 including protocol for Rule 2012 amended on December 5, 2003.

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[FR Doc. 04–16942 Filed 7–23–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7791–3]

Maryland: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Maryland has applied to EPA for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing Maryland's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Maryland's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, or portions thereof, we will publish a document in the **Federal Register** withdrawing the relevant portions of this rule before they take effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize changes to Maryland's program that were the subject of adverse comments.

DATES: This Final authorization will become effective on September 24, 2004, unless EPA receives adverse written comment by August 25, 2004. If EPA receives any such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization, or portions thereof, will not take effect as scheduled.

ADDRESSES: Submit your comments, identified by FRL–7791–3 by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail: johnson.carol@epamail.epa.gov.*

3. *Mail:* Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.

4. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the normal hours of operation, and special arrangements should be made for deliveries of boxed information.

You may inspect and copy Maryland's application from 8:30 a.m. to 4:30 p.m., Monday through Friday at the following addresses: Maryland Department of the Environment, Waste Management Administration, Hazardous Waste Program, 1800 Washington Blvd., Suite 645, Baltimore, Maryland 21230–1719, Phone number: (410) 537–3345, Attn: Ed Hammerberg, and the EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

Instructions: Direct your comments to FRL–7791–3. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The federal regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3378.

SUPPLEMENTARY INFORMATION:

A. Why are Revisions to State Programs Necessary?

States that have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes to become more stringent or broader in scope, States must change their programs and apply to EPA to authorize the changes. Authorization of changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

EPA concludes that Maryland's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Maryland final authorization to operate its hazardous waste program with the changes described in its application for program revisions, subject to the procedures described in section E, below. Maryland has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions for which Maryland has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

This decision serves to authorize revisions to Maryland's authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which Maryland is being authorized by today's action are already effective and are not changed by today's action. Maryland has enforcement responsibilities under its state hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether Maryland has taken its own actions.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize Maryland's program changes. If EPA receives comments that oppose this authorization, or portions thereof, that document will serve as a proposal to authorize the changes to Maryland's program that were the subject of adverse comment.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, or portions thereof, we will withdraw this rule, or portions thereof, by publishing a document in the **Federal Register** before the rule would become effective. EPA will base any further decision on the authorization of Maryland's program changes on the proposal mentioned in the previous section. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose the authorization of a particular change to the State's hazardous waste program, we will withdraw that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Maryland Previously Been Authorized for?

Initially Maryland received final authorization effective February 11, 1985 (50 FR 3511; January 25, 1985) to implement its base hazardous waste management program. EPA granted authorization for changes to Maryland's regulatory program on June 1, 2001, effective July 31, 2001 (66 FR 29712).

G. What Changes Are We Authorizing With Today's Action?

On May 27, 2004, Maryland submitted a program revision application, seeking authorization of additional changes to its program in accordance with 40 CFR 271.21. Maryland's revision application includes various regulations that are equivalent to, and no less stringent than, changes to the Federal hazardous waste program, as published in the **Federal Register** through June 1, 2001. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Maryland's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Maryland final authorization for the following program changes:

1. Program Revision Changes for Federal Rules

Maryland seeks authority to administer the Federal requirements that are listed in Tables 1–A and 1–B below. Tables 1–A and 1–B identify Maryland's analogs that are being recognized as equivalent or more stringent to the appropriate Federal requirements. The regulatory references are to Title 26, Subtitle 13 of the Code of Maryland Regulations (COMAR), Chapters 01 through 07, and Chapter 10, as amended effective November 1, 2002. The State's statutory authority for its hazardous waste program is based on the Environment Article, Title 7, Subtitle 2 of the Annotated Code of Maryland (1996 Repl. Vol., 1999 Cumul. Supp.). Maryland has made no changes to its hazardous waste statutes since 1999.

TABLE 1–A.—MARYLAND'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of Federal requirement (revision checklists [1])	**Federal Register** date and page	Analogous state authority
Wood Preserving Listings (Revision Checklists 82, 92, 120, 167F).	12/6/90, 55 FR 50450; 7/1/91, 56 FR 30192; 12/24/92, 57 FR 61492; 5/26/98, 63 FR 28556.	COMAR 26.13.01.03B (16–1); 26.13.02.04A(9), .04C, .16A, .16C, .22, .23 and .24; 26.13.03.05E(1)(b), (e), and (l); 26.13.05.10A(1), .10A(5) and .17–1 through .17–4; 26.13.06.18A and .26; 26.13.07.02–11.
Liquids in Landfills II (Revision Checklist 118) ..	11/18/92, 57 FR 54452	COMAR 23.13.05.14N(1); 26.13.06.22F(1), .22F(3)(c) and .22F(3)(d). (More stringent provisions: 26.13.05.14N(1); 26.13.06.22F(1)).

TABLE 1–A.—MARYLAND'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (revision checklists [1])	**Federal Register** date and page	Analogous state authority
Universal Waste Rules (Revision Checklists 142A–E, 176).	5/11/95, 60 FR 25492; 12/24/98, 63 FR 71225.	COMAR 26.13.01.03A; 26.13.01.03B(4–1), (12–1), (16–2), (24–2), (29), (46–1), (56), (62–1), (72–2), (80–1), (89–1), (89–2), (89–3), (89–4); 26.13.01.04A(1) and .04J; 26.13.02.05A(2), .05D(2)(f)(ii) and .05D(2)(g); 26.13.02.06A(3)(a)(ii)–(iv); 26.13.02.07–1; 26.13.03.01B, .01B–1, .01C through .01F, .02B; 26.13.05.01A(3)(k); 26.13.06.01A(4)(j); 26.13.07.01A; 26.13.10.04, .06 through .14, .17A (except A(2)(e) and A(2)(f)), .17B, .17C, .17D, .18 (except C(2)), .19, .20 (except .20D and .20(E)), .21, .22 (except (G)(1)), .23, .24 (except .24B(4)) and .25. [Note: Maryland's regulations addressing lamps and PCB-containing lamps are not part of the State's universal waste requirements being authorized.]
Removal of Legally Obsolete Rules (Revision Checklist 144).	6/29/95, 60 FR 33912	The Federal final rule removed obsolete language from the Code of Federal Regulations. Maryland did not adopt the Federal rule because Maryland's regulations did not include the obsolete Federal language.
Liquids in Landfills III (Revision Checklist 145)	7/11/95, 60 FR 35703	COMAR 26.13.05.14N(1). (More stringent provision: 26.13.05.14N(1)).
Conditionally Exempt Small Quantity Generator Disposal Options Under Subtitle D (Revision Checklist 153).	7/1/96, 61 FR 34252	COMAR 26.13.02.05D(2). (More stringent provision: 26.13.02.05D(2)(c)).

[1] A Revision Checklist is a document that addresses the specific changes made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal regulations. For more information see EPA's RCRA State Authorization Web page at *http://www.epa.gov/epaoswer/hazwaste/state.*

In addition to the provisions listed in Table 1–A, Maryland is seeking authorization for the provisions listed in Table 1–B. These provisions relate to the comparable/syngas fuel requirements published on June 19, 1998 (63 FR 33782; Revision Checklist 168), and the subsequent revisions published on September 30, 1999 (64 FR 52828) and July 10, 2000 (65 FR 42292). Note that the 1999 and 2000 Federal rules address the standards that reflect the performance of Maximum Achievable Control Technologies (MACT) as specified by the Clean Air Act, as well as technical corrections to the June 19, 1998 comparable/syngas fuel requirements. Maryland has not adopted, and is not seeking authorization for, the MACT standards.

TABLE 1–B.—MARYLAND'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of Federal requirement (revision checklists)	**Federal Register** date and page	Analogous state authority
Hazardous Waste Combustors Revised Standards (Revision Checklist 168).	6/19/98, 63 FR 33782	COMAR 26.13.02.04A(13); 26.13.02.19–1, 19–2A (except (2)(d)), .19–2B through .19–2G, .19–3, .19–4 and .19–5; 26.13.07.13–2A(10)(e); 26.13.07.23C(3)(h). (More stringent provisions: 26.13.02.19–2C(2), 26.13.02.19–5B(3). In addition, Maryland has not adopted an analog to 40 CFR 270.42(j)(2)).
40 CFR 260.10 "Dioxins and furans (D/F)" [definition];. 40 CFR 261.38, Table 1—[detection and detection limit values for comparable fuel specification]; 40 CFR 270.42, Item L(9) [permit modification requirement addressing technology changes needed to meet standards under 40 CFR Part 63, Subpart EEE.] (From Revision Checklist 182)	9/30/99, 64 FR 52828	COMAR 26.13.01.03B(13–1), 26.13.02.19–1B/Table 1 and 26.13.07.13–2A(10)(e).
40 CFR 261.38(c)(2)(iv) [revision for gas turbines] (From Revision Checklist 188).	7/10/00; 65 FR 42292	COMAR 26.13.02.19–2A(2)(d).

2. State-Initiated Changes

Maryland's program revision application includes State-initiated changes that are not directly related to any of the Revision Checklists in Tables 1–A and 1–B. All the State-initiated changes are related to either (1) the adoption of a provision that makes internal clarification and conforming changes to the State's regulations, (2) adoption of a provision that makes the State's regulations, which had been more stringent, now equivalent to the Federal hazardous waste regulations, or (3) correction of typographical errors. EPA grants Maryland final authorization for the State provisions listed in Table 2. These requirements are analogous to the indicated Federal RCRA regulations found at 40 CFR as of July 1, 2001.

TABLE 2.—EQUIVALENT STATE-INITIATED CHANGES

State citation	Federal RCRA citation
26.13.02.05D(2)(c)(iv)*	No direct Federal analog/Related to 261.5(g)(3)(i).
26.13.06.01A(4)(k)	265.1(c)(13).
26.13.10.03A	266.70(a).
26.13.10.04C	266.80.

* **Note:** In accordance with its solid waste regulations at COMAR 26.04.07.03B(5), Maryland prohibits the acceptance of hazardous waste at a solid waste facility unless the facility is specifically authorized by a valid permit issued under COMAR 26.13.07.

H. Where Are the Revised Maryland Rules Different From the Federal Rules?

1. Maryland Requirements That Are Broader in Scope Than the Federal Program

The Maryland hazardous waste program contains certain provisions that are beyond the scope of the Federal program. These broader in scope provisions are not part of the program being authorized by today's action. EPA cannot enforce requirements that are broader in scope, although compliance with such provisions is required by Maryland law. Examples of broader in scope provisions of Maryland's program include, but are not limited to, the following:

Maryland's regulations at COMAR section 26.13.10 include PCB-containing lamp ballasts as a universal waste. The requirements for PCB-containing lamp ballasts go beyond the scope of the Federal program because PCB's are not a Federal hazardous waste and thus are not part of the program being authorized by today's action. EPA cannot enforce these requirements that are broader in scope, although compliance with these provisions is required by Maryland law.

2. Maryland Requirements That Are More Stringent Than the Federal Program

Maryland's hazardous waste program contains several provisions that are more stringent than the RCRA program as codified in the July 1, 2001 edition of Title 40 of the Code of Federal Regulations (CFR). More stringent provisions are part of a Federally-authorized program and are, therefore, Federally-enforceable. The specific more stringent provisions in Maryland's program are noted in section G. 1 and include, but are not limited to, the following:

(a) Maryland's regulations are more stringent than the Federal requirements addressed by the final rule published on November 18, 1992 (55 *FR* 54452, as amended on July 11, 1995 (60 *FR* 35703). The Federal provisions allow liquid wastes to be placed in landfills if the owner or operator complies with certain requirements. Per COMAR sections 26.13.05.14.N(1) and 26.13.06.22F(1), Maryland does not allow bulk or non-containerized liquid waste or waste containing free liquids to be disposed in landfills.

(b) Maryland's provision at COMAR section 26.13.02.19–2C(2) is more stringent than the Federal requirement at 40 CFR 261.38(c)(1)(ii) because in addition to the Federal requirement that a burner provide public notice in a major newspaper prior to burning an excluded comparable/syngas fuel, Maryland also requires burners to submit a copy of the public notice to the Secretary.

(c) Maryland's provision at COMAR section 26.13.02.19–5B(3) is more stringent than the Federal requirements at 40 CFR 261.38(c)(11) because Maryland requires records and waste analysis plans to be maintained as long as the Department has an enforcement case, unlike the Federal program where records must be maintained for a period of three years.

(d) Maryland has not adopted an analog to 40 CFR 270.42(j)(2), which provides for automatic approval of permit modification requests in the event the Director does not approve or deny a request within 90 days of receipt. Therefore, Maryland's program is more stringent than the Federal program in this regard.

I. Who Handles Permits After the Authorization Takes Effect?

After authorization, Maryland will issue permits covering all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that we issued prior to the effective date of this authorization until the timing and process for effective transfer to the State are mutually agreed upon. Until such time as formal transfer of EPA permit responsibility to the State occurs and EPA terminates its permit, EPA and the State agree to coordinate the administration of permits in order to maintain consistency. We will not issue any more new permits or new portions of permits for the provisions listed in Tables 1–A, 1–B and 2 above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Maryland is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Maryland?

Maryland is not seeking authority to operate the program on Indian lands, since there are no Federally-recognized Indian Lands in the State.

K. What Is Codification and Is EPA Codifying Maryland's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart V, for this authorization of Maryland's program changes until a later date.

L. Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA section 3006 and imposes no requirements other than those imposed by State law (see Supplementary Information, section A. Why are

Revisions to State Programs Necessary?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows.

1. Executive Order 12866: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866.

2. Paperwork Reduction Act

This rule does not impose an information collection burden under the Paperwork Reduction Act.

3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act.

5. Executive Order 13132: Federalism

Executive Order 13132 does not apply to this rule because it will not have federalism implications (*i.e.*, substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government).

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

7. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

This rule is not subject to Executive Order 13045 because it is not economically significant and it is not based on health or safety risks.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866.

9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, section 12(d) of the National Technology Transfer and Advance Act does not apply to this rule.

10. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective on September 24, 2004.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 12, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 04–16944 Filed 7–23–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7790–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final notice of deletion of the Mid-America Tanning Co. site from the National Priorities List (NPL).

SUMMARY: The EPA, Region VII, is publishing a direct final notice of deletion of the Mid-America Tanning Co. site (site), located near Sergeant Bluff, Iowa, from the NPL.

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the state of Iowa, through the Iowa Department of Natural Resources (IDNR) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective September 24, 2004 unless EPA receives adverse comments by August 25, 2004. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to Bob Stewart, Remedial Project Manager, U.S. Environmental Protection Agency, Superfund Division, 901 North 5th Street, Kansas City, KS 66101.

Information Repositories: Comprehensive information on the site is available for viewing in the Deletion Docket at the information repositories located at: U.S. EPA Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101; and the IDNR, Henry A. Wallace Building, 900 East Grand, Des Moines, IA 50319.

FOR FURTHER INFORMATION CONTACT: Bob Stewart, Remedial Project Manager, U.S. EPA, Superfund Division, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551–9654, or 1–800–223–0425.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The EPA, Region VII, is publishing this direct final notice of deletion of the Mid-America Tanning Co. Superfund site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective September 24, 2004 unless EPA receives adverse comments by August 25, 2004 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. The EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Mid-America Tanning Superfund site and demonstrates how it meets the deletion criteria. Section V states EPA's action to delete the site from the NPL unless adverse comments are received during the comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required.

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the remedy remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without the application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the site.

(1) The EPA consulted with the State of Iowa on the deletion of the site from the NPL prior to developing this direct final notice of deletion.

(2) The State of Iowa concurred with deletion of the site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the site and is being distributed to appropriate Federal, State, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Deletion Docket at the site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of the site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Intended Site Deletion

The following information provides EPA's rationale for deleting the site from the NPL.

Site Location

The Mid-America Tanning Co. site is located in Woodbury County, Iowa, and is a 98.7-acre site which lies near the Missouri River in the Port Neal Industrial District four miles south of the town of Sergeant Bluff.

Site History

The Mid-America Tanning Co. facility was a leather tannery which operated from 1970 to 1989. In 1973, the plant began using a chrome tanning process. Process wastewater containing debris, chromium, and other chemicals was discharged to onsite surface impoundments. Chromium contaminated sludge accumulated at the bottom of the surface impoundments and was disposed of on site in trenches and in surface soil. When the facility ceased operations in 1989, there was an estimated 5,000 gallons of chromium tanning solution on site along with 525 gallons of sulfuric acid used in the tanning process.

The site was proposed to the NPL in June 1988 and became final in March 1989 (54 FR 13296). The site posed a threat to the public health through direct contact and through potential migration of chromium into the surrounding groundwater that is the primary drinking water source for approximately 850 individuals who live in the surrounding three-mile radius of the site. This determination was made based on evidence of repeated discharges of chromium at the site and groundwater samples in exceedance of drinking water standards.

Remedial Investigation and Feasibility Study (RI/FS)

In December 1989, the EPA issued an administrative order to the owner and operator of the MAT facility, the U.S. Tanning Co. (UST), requiring UST to perform an investigation and removal action at the site to determine the nature and extent of the contamination problem. Having previously filed bankruptcy, the company failed to comply with the order. Because of imminent health threats, EPA initiated a removal action in 1990. The EPA removal action was directed toward immediate site stabilization measures and included excavation and stockpiling of contaminated sludge from the onsite burial trench, containment

and treatment of chromium tanning solutions, containment and neutralization of sulfuric acids, and cursory decontamination of the buildings.

In conjunction with the removal activities, EPA conducted an investigation into the nature and extent of the contamination at the site. During EPA's investigation of the site in 1991, 18 wells located in shallow, intermediate, and deep water-bearing zones were sampled. The data obtained from the wells indicated that the direction of groundwater flow at the site is west to southwest toward the Missouri River. The results of analysis of the groundwater samples indicated the presence of chromium, lead, arsenic, and barium in the groundwater. The extent of contaminated soil was determined from borings. Wastes and liquids in the impoundments, treatment units, sludge disposal areas, and Oxbow Lake were also sampled.

Record of Decision Findings

In September 1991, EPA decided on a cleanup plan which was explained in a ''Record of Decision'' (ROD). The cleanup plan included onsite stabilization of contaminated wastes followed by installation of a soil cap and continued monitoring of the groundwater. The ROD stated that the groundwater at the site will be addressed as a separate operable unit and recommended further monitoring of the groundwater. Subsequently, the EPA determined that the sludge in the surface impoundment was emitting hydrogen sulfide gas and that the implementation of the stabilization component of the cleanup plan would likely result in the release of this gas at concentrations which would pose a threat to public health and the environment. In response to the new data regarding the hydrogen sulfide emissions, the EPA modified the cleanup plan for the site in an amended ROD dated July 1996. The modified plan included dewatering the impoundment areas; treating and discharging the impoundment waters; excavating contaminated soils and combining them with the contaminated impoundment sludge; capping the impoundment soil/sludge; and decontaminating various cement structures and a portion of one building.

A further assessment of the groundwater at the site was completed in December 1997 in accordance with the sampling plan approved by EPA. Twenty-one monitoring wells were sampled, obtaining water from both shallow and deep water-bearing zones at the site. These samples were analyzed for 19 analytes. The assessment showed that the groundwater flow direction was consistent with that previously determined and also found that upward hydraulic gradients were present. These upward gradients are important because they prevent downward contaminant migration and help limit migration at the site. Metals detected in groundwater samples including arsenic, barium, and chromium, were well below Maximum Contaminant Levels (MCL); the highest chromium levels were less than 10 percent of the MCL. Lead, aluminum, and arsenic were below Iowa Aquatic Standards as well. A ROD was issued in September 2000 following a public notice period and public meeting, which determined that no further action was necessary for the groundwater at the site.

Characterization of Risk

A baseline risk assessment was prepared by the EPA for the site. A human health baseline risk assessment was prepared and was described in the1991 ROD. For groundwater, the risk assessment assumed that residents would use the groundwater as a drinking water source. The EPA believed that future uses of the site will be industrial only; we, however, evaluated contaminant levels in the groundwater against drinking water standards for residential consumption as a conservative first step.

The primary contaminant of concern at the site was chromium. This chemical may pose adverse health effects at high concentrations or exposures, and is considered to be a probable human carcinogen in the hexavalent form if inhaled. Hexavalent chromium has not been found in site groundwater. The volatilization of chromium dissolved in groundwater should not occur during typical residential use. Trivalent chromium, the form found at the site, is much less toxic.

To ensure protection of human health, the risk assessment assumed that no action was taken on the groundwater at the site to remove the contamination, and the highest exposure reasonably expected to occur at the site was evaluated. Additionally, the EPA assumed that a future resident drills a new well within the area of the groundwater contamination and then drinks and bathes with contaminated groundwater. Even under residential conditions, the highest concentration of chromium in the groundwater would not pose adverse health effects.

In its 1991 ROD, the EPA concluded that the only other contaminant in the groundwater at levels of concern was manganese, and that it would naturally reduce in concentration as a result of the removal and remedial actions at the site. The results of the 1997 sampling confirmed that expectation and indicated that no contaminants are present in the groundwater at levels of concern.

The ecological assessment in the 1991 ROD concluded that only minimal impacts from site contaminants would be expected, and that a response action based on human health risks would also reduce this minimal threat to the environment. Based on the lack of any substantial concentrations of contaminants in the groundwater and on the remedial actions planned at the site, EPA decided that a threat to the surface environment does not exist. Therefore, further actions taken solely to protect surface environmental receptors were found to be unnecessary.

Response Actions

Following the initial removal action performed by EPA in 1990, site conditions deteriorated due to vandalism and areas of the site were re-contaminated. In 1994, EPA issued an Administrative Order to Foxley Cattle Company, a Potentially Responsible Party (PRP), to perform a second removal action to address re-contamination concerns, address the hydrogen sulfide problem and provide for site security. The removal action performed by Foxley was completed in 1995 and consisted of decontaminating buildings, removal and disposal of drummed wastes, and securing the site buildings and man-holes.

The EPA implemented remedial design efforts which included the following work:

—Excavation and relocation of onsite contaminated soil, sediment, and sludge materials;
—Coverage of those materials with multi-media landfill cap structures;
—Treatment of free wastewaters located in several site impoundments;
—Installation of floating geosynthetic covers on existing site lagoons;
—Decontamination by steam cleaning of selected site facilities;
—Decontamination of selected buildings;
—Transfer of wastewaters from and to selected surface impoundments and installation of chain link fencing.

This work was carried out and a final inspection was conducted on May 19, 2000. On August 1, 2000, a Remedial Action (RA) Report was completed, demonstrating successful completion of construction activities. The site will remain suitable for industrial and commercial uses. Institutional controls

have been placed on the site through the State of Iowa's Registry of Hazardous Waste or Hazardous Substance Disposal Sites, which prevents changes in land ownership or use without State approval. In addition, a notice has been placed on the deed.

Cleanup Standards

Soil cleanup standards were set in the ROD at 2000 milligrams per kilogram (mg/kg) total chromium. This standard was met and exceeded in the site excavation work. The site work was considered to be completed when the groundwater monitoring revealed no exceedance of MCLs, or State action levels, for CERCLA contaminants of concern. All facets of the ROD and amended ROD have been met as well. Because wastes remain at the site in two capped landfills and in the covered impoundments, some residual risks remain at the site that require continued operation and maintenance activities, institutional controls, and five-year reviews.

Operations and Maintenance

The State of Iowa has provided in the State Superfund Contract with EPA an adequate assurance to assume responsibility for operation and maintenance activities, including institutional controls. The state is conducting operation and maintenance activities pursuant to the Surveillance and Maintenance Plan that was approved by EPA on September 12, 2000. Operation and maintenance of the landfill caps, floating covers, and fences is required and will continue after site deletion, since waste was left in place as part of the final source control remedy. The Plan, dated September 1998 and revised by technical memorandum of June 19, 2000, lists the activities to be performed, including inspections every six months to ensure erosion control, floating cover maintenance, mowing, and fence maintenance. Institutional controls will also be maintained. No major problems have been encountered.

Five-Year Review

A statutory Five-Year Review Report was completed on July 11, 2003, pursuant to CERCLA 121 (c) and to § 300.430(f)(4)(ii) of the NCP. The report concluded that the remedy is protective of human health and the environment, all threats at the site have been addressed, and contaminants of concern in the groundwater have been shown to be below drinking water standards. Another five-year review report is scheduled for 2008.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Mailing lists were developed, fact sheets mailed out, and public notices placed in newspapers in July 1991, May 1996, and July 2000 to support the proposed plans. Public meetings were held on July 30, 1991, and July 24, 2000; opportunity for a hearing was provided in May 1996 but none was requested. In addition, a public notice for the Five-Year Review was placed in June 2003. Documents in the Deletion Docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories. A public notice for this action will also be published in the *Sergeant Bluff Advocate*.

V. Deletion Action

The EPA, with concurrence of the State of Iowa, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, are necessary. The State concurrence letter dated May 11, 2004, states that IDNR concurs with the proposed removal of the site from the NPL. It notes that such removal will not disqualify the site for Superfund funds if additional remedial work is deemed necessary in the future. The EPA agrees with the State comment; therefore, EPA is deleting the site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 24, 2004 unless EPA receives adverse comments by August 25, 2004. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 21, 2004.

James B. Gulliford,

Regional Administrator, Region VII.

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing the site, ''Mid-America Tanning Co., Sergeant Bluff, IA.''

[FR Doc. 04–16726 Filed 7–23–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–1736; MB Docket No. 03–244, RM–10825]

Radio Broadcasting Services; New Market, Alabama and Tullahoma, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Tennessee Valley Radio, Inc., licensee of FM Station WHRP, Tullahoma, Tennessee, deletes Tullahoma, Tennessee, Channel 227C1, from the FM Table of Allotments, and allots Channel 227C2 at New Market, Tennessee, as the community's first local FM service, and modifies the license of FM Station WHRP to specify operation on Channel 227C2 at New Market. Previously, the Audio Division granted Station WHRP a license to specify operation on Channel 227C1 in lieu of Channel 227C. *See* BLH–19890717KC Channel 227C2 can be allotted to New Market, Alabama, in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.2 km (3.2 miles) south of New Market. The coordinates for Channel 227C2 at New Market, Alabama, are 34–51–48 North Latitude and 86–25–38 West Longitude.

DATES: Effective August 23, 2004.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 03–244, adopted June 23, 2004, and released June 25, 2004.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, (800) 378–3160, or via the company's Web site, *http://www.bcpiweb.com.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding New Market, Channel 227C2.

■ 3. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Tullahoma, Channel 227C.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–16890 Filed 7–23–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[PR Docket No. 92–257; RM–9664; DA 04–1608]

Amendment of the Commission's Rules Concerning Maritime Communications

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published in the **Federal Register** of Thursday, July 25, 2002 (67 FR 48560). The regulations related to licensing of Automated Maritime Telecommunication System stations.

DATES: Effective July 26, 2004.

FOR FURTHER INFORMATION CONTACT: Scot Stone, Public Safety and Critical Infrastructure Division at (202) 418–0680.

SUPPLEMENTARY INFORMATION:

Background

The final regulations determined that unassigned Automated Maritime Telecommunications System spectrum would be made available for licensing throughout the United States by ten Automated Maritime Telecommunications System Areas (AMTSAs). Each AMTSA consists of one or more of the 174 Economic Areas (EAs) or EA-like areas in International Telecommunication Region 2—*i.e.,* the 172 EAs specified by the Department of Commerce and the Commission-created EA-like areas for Puerto Rico and the United States Virgin Islands (EA 174) and the Gulf of Mexico (EA 176). However, § 80.385(a)(3) of the Commission's Rules did not include a reference to the perimeter of EA 176.

Need for Correction

As published, § 80.385(a)(3) does not refer to the perimeter of EA 176, which may prove to be misleading and needs to be clarified. In addition, the second column of the table in § 80.385(a)(2), as published in the **Federal Register** was misaligned, beginning with Channel 149, and needs to be corrected.

List of Subjects in 47 CFR Part 80

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

■ Accordingly, 47 CFR part 80 is corrected by making the following correcting amendments.

PART 80—MARITIME SERVICES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

■ 2. Revise paragraphs (a)(2) and (a)(3) of § 80.385 to read as follows:

§ 80.385 Frequencies for automated systems.

* * * * *

(a) * * *

(2) The following carrier frequencies are available for assignment to public coast stations for public correspondence communications with ship stations and units on land. AMTS operations must not cause harmful interference to the U.S. Navy SPASUR system which operates in the band 216.880–217.080 MHz.

Channel No.	Carrier frequency (MHz)		
	Ship transmit [1 3]	Coast transmit [2]	Group
101	.....	216.0125	D
102	.....	216.0375	
103	.....	216.0625	
104	.....	216.0875	
105	.....	216.1125	
106	.....	216.1375	
107	.....	216.1625	
108	.....	216.1875	
109	.....	216.2125	
110	.....	216.2375	
111	.....	216.2625	
112	.....	216.2875	
113	.....	216.3125	
114	.....	216.3375	
115	.....	216.3625	
116	.....	216.3875	
117	.....	216.4125	
118	.....	216.4375	
119	.....	216.4625	
120	.....	216.4875	
121	.....	216.5125	C
122	.....	216.5375	
123	.....	216.5625	
124	.....	216.5875	
125	.....	216.6125	
126	.....	216.6375	
127	.....	216.6625	
128	.....	216.6875	
129	.....	216.7125	
130	.....	216.7375	
131	.....	216.7625	
132	.....	216.7875	
133	.....	216.8125	
134	.....	216.8375	
135	.....	216.8625	
136	.....	216.8875	
137	.....	216.9125	
138	.....	216.9375	
139	.....	216.9625	
140	.....	216.9875	
141	219.0125	217.0125	B
142	219.0375	217.0375	
143	219.0625	217.0625	
144	219.0875	217.0875	
145	219.1125	217.1125	
146	219.1375	217.1375	
147	219.1625	217.1625	
148	219.1875	217.1875	
149	219.2125	217.2125	
150	219.2375	217.2375	
151	219.2625	217.2625	
152	219.2875	217.2875	
153	219.3125	217.3125	

Channel No.	Carrier frequency (MHz)		
	Ship transmit [1 3]	Coast transmit [2]	Group
154	219.3375	217.3375	
155	219.3625	217.3625	
156	219.3875	217.3875	
157	219.4125	217.4125	
158	219.4375	217.4375	
159	219.4625	217.4625	
160	219.4875	217.4875	
161	219.5125	217.5125	A
162	219.5375	217.5375	
163	219.5625	217.5625	
164	219.5875	217.5875	
165	219.6125	217.6125	
166	219.6375	217.6375	
167	219.6625	217.6625	
168	219.6875	217.6875	
169	219.7125	217.7125	
170	219.7375	217.7375	
171	219.7625	217.7625	
172	219.7875	217.7875	
173	219.8125	217.8125	
174	219.8375	217.8375	
175	219.8625	217.8625	
176	219.8875	217.8875	
177	219.9125	217.9125	
178	219.9375	217.9375	
179	219.9625	217.9625	
180	219.9875	217.9875	

[1] Ship transmit frequencies in Groups C and D are not authorized for AMTS use.

[2] Coast station operation on frequencies in Groups C and D are not currently assignable and are shared on a secondary basis with the Low Power Radio Service in part 95 of this chapter. Frequencies in the band 216.750–217.000 MHz band are available for low power point-to-point network control communications by AMTS coast stations under the Low Power Radio Service (LPRS). LPRS operations are subject to the conditions that no harmful interference is caused to the United States Navy's SPASUR radar system (216.88–217.08 MHz) or to TV reception within the Grade B contour of any TV channel 13 station or within the 68 dBu predicted contour of any low power TV or TV translator station operating on channel 13.

[3] Ship transmit frequencies in Groups A and B are permitted to provide mobile-to-mobile communications where the written consent of all affected licensees is obtained.

(3) As listed in the table in this paragraph, AMTS Areas (AMTSAs) are based on, and composed of one or more of, the U.S Department of Commerce's 172 Economic Areas (EAs). See 60 FR 13114 (March 10, 1995). In addition, the Commission shall treat Puerto Rico, the United States Virgin Islands, and the Gulf of Mexico as EA-like areas. The Gulf of Mexico EA extends from 12 nautical miles off the United States Gulf coast outward into the Gulf. See § 27.6(a)(2) of this chapter and 62 FR 9636. Maps of the EAs and AMTSAs are available for public inspection and copying at the Federal Communications Commission, Reference Center, 445 12th Street, SW., Room CY A257, Washington, DC 20554. These maps and data are also available on the FCC Web site at *www.fcc.gov/oet/info/maps/areas/*. The Group A and B frequency pairs listed in the table in paragraph (a)(2) of this section are available for assignment to a single licensee in each of the AMTSAs listed in the table in this paragraph. In addition to the listed EAs listed in the table in this paragraph, each AMTSA also includes the adjacent waters under the jurisdiction of the United States.

AMTS AREAS (AMTSAS)

AMTSAs	EAs
1 (Northern Atlantic) ..	1–5, 10 9, 11–23, 25, 42, 46
2 (Mid-Atlantic)	24, 26–34, 37, 38, 40, 41, 174
3 (Southern Atlantic)	35, 36, 39, 43–45, 47–53, 67–107, 113, 116–120, 122– 125, 127, 130–134, 176 6–8, 54–66, 108, 109
4 (Mississippi River) ..	160–165 147, 166–170
5 (Great Lakes)	172
6 (Southern Pacific) ...	171 110–112, 114–115, 121, 126, 128, 129, 135–146, 148–159
7 (Northern Pacific)	
8 (Hawaii)	
9 (Alaska)	
10 (Mountain)	

* * * * *

[FR Doc. 04–16892 Filed 7–23–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031125292–4061–02; I.D. 072104A]

Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Rockfish'' in the Western Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of ''other rockfish'' in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of ''other rockfish'' in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the ''other rockfish'' 2004 total allowable catch (TAC) in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 22, 2004, until 2400 hrs, A.l.t., December 31, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and at 50 CFR part 679.

The 2004 TAC of ''other rockfish'' in the Western Regulatory Area of the GOA was established as 40 metric tons (mt) by the final 2004 harvest specifications for groundfish in the GOA (69 FR 9261, February 27, 2004).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the ''other rockfish'' TAC in the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of ''other rockfish'' in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of ''other rockfish'' in the Western Regulatory Area of the GOA.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 21, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–16950 Filed 7–21–04; 3:07 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031125292–4061–02; I.D. 072004C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the West Yakutat District of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pelagic shelf rockfish in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2004 total allowable catch (TAC) of pelagic shelf rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 21, 2004, through 2400 hrs, A.l.t., December 31, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–2778.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and at 50 CFR part 679.

The 2004 TAC specified for pelagic shelf rockfish in the West Yakutat District of the GOA is 210 metric tons (mt) as established by the 2004 harvest specifications for groundfish of the GOA (69 FR 9261, February 27, 2004).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2004 TAC for pelagic shelf rockfish in the West Yakutat District will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 200 mt, and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pelagic shelf rockfish in the West Yakutat District of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the directed fishery for pelagic shelf rockfish in the West Yakutat District of the GOA.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 20, 2004.

Alan D. Risenhoover

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–16952 Filed 7–21–04; 3:07 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 69, No. 142
Monday, July 26, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18678; Directorate Identifier 2001–NM–312–AD]

RIN 2120–AA64

Airworthiness Directives; All BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. This proposed AD would require repetitive detailed inspections of the rear fuselage upper skin to detect cracking due to fatigue, and repair if necessary. This proposed AD is prompted by evidence of cracking due to fatigue along the edges of certain chemi-etched pockets in the rear fuselage upper skin. We are proposing this AD to prevent a possible sudden loss of cabin pressure and consequent injury to passengers and flightcrew.

DATES: We must receive comments on this proposed AD by August 25, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer; International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form ''Docket No. FAA–2004–99999.'' The Transport Airplane Directorate identifier is in the form ''Directorate Identifier 2004–NM–999–AD.'' Each DMS AD docket also lists the directorate identifier (''Old Docket Number'') as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2004–18678; Directorate Identifier 2001–NM–312–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the Docket

You can examine the AD docket in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that an unsafe condition may exist on all BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. The CAA advises that operators have reported evidence of cracking due to fatigue along the edges of the chemi-etched pockets in the rear fuselage upper skin adjacent to the lap joint at stringer 2 between frames 34 and 35, and adjacent to the lap joint at stringer 10 between frames 38 and 37. This condition, if not corrected, could result in joining of those cracks and lead to possible sudden loss of cabin pressure with consequent injury to passengers and flightcrew.

Relevant Service Information

BAE Systems (Operations) Limited has issued Inspection Service Bulletin ISB.53–164, dated July 10, 2001. The ISB describes procedures for repetitive detailed inspections to detect cracking of certain upper skin panels of the rear fuselage, and repair if necessary. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA approved the service information.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. We have examined the CAA's findings, evaluated all pertinent information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require repetitive detailed inspections of the rear fuselage upper skin to detect cracking due to fatigue, and related corrective actions if necessary. The proposed AD would require you to use the service information described previously to perform these actions, except as discussed under ''Differences Between the Proposed AD and Referenced Service Bulletin.''

Difference Between Proposed Rule and Referenced Service Bulletin

Operators should note that, although the referenced service bulletin describes procedures for submitting Appendix 1 of the service bulletin with inspection results to the manufacturer, this proposed AD would not require that action. We do not need this information from operators.

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions using a method that we or the CAA (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the CAA approve would be acceptable for compliance with this proposed AD.

Cost Impact

This proposed AD would affect about 55 airplanes of U.S. registry. The proposed actions would take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $14,300, or $260 per airplane, per inspection cycle.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2004–18678; Directorate Identifier 2001–NM–312–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by August 25, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by evidence of cracking due to fatigue along the edges of certain chemi-etched pockets in the rear fuselage upper skin. We are issuing this AD to prevent a possible sudden loss of cabin pressure and consequent injury to passengers and flightcrew.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection and Repair

(f) Within the applicable compliance times specified in paragraph (f)(1) or (f)(2) of this AD, perform a detailed inspection of the rear fuselage upper skin to detect cracking, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–164, dated July 10, 2001.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, *etc.*, may be used. Surface cleaning and elaborate access procedures may be required.''

(1) For Model Avro 146–RJ series airplanes: Inspect before the accumulation of 10,000 total landings, or within 2,000 landings after the effective date of this AD, whichever is later.

(i) For areas where no crack is found, repeat the inspection at intervals not to exceed 4,000 landings.

(ii) For areas where any crack is found, before further flight, perform repairs in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (CAA) (or its delegated agent). No further inspection of any repaired area is required by this AD.

(2) For Model BAe 146 series airplanes: Inspect before the accumulation of 16,000 total landings, or within 4,000 landings after the effective date of this AD, whichever is later.

(i) For areas where no crack is found, repeat the inspection at intervals not to exceed 8,000 landings.

(ii) For areas where any crack is found, before further flight, perform repairs in

accordance with a method approved by the Manager, International Branch, ANM–116; or the CAA (or its delegated agent). No further inspection of any repaired area is required by this AD.

No Reporting Requirement

(g) Although the referenced service bulletin specifies to submit Appendix 1 of the service bulletin with certain information to the manufacturer, this AD does not require that action.

Alternative Methods of Compliance (AMOCs)

(h) The Manager, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(i) None.

Issued in Renton, Washington, on July 19, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–16917 Filed 7–23–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 30, 37, 39, 42, 44, and 47

RIN 1076–AE49

Implementation of the No Child Left Behind Act of 2001

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; reopening of comment period; correction.

SUMMARY: This document corrects the heading of a document that reopened the comment period for a proposed rule published in the **Federal Register** of Wednesday, July 21, 2004, at 69 FR 43547. This document corrects the title to read as set forth above.

FOR FURTHER INFORMATION CONTACT: Catherine Freels, Designated Federal Official, P.O. Box 1430, Albuquerque, NM 87103–1430; phone: (505) 248–7240; e-mail: *cfreels@bia.edu*.

Correction

The document published Wednesday July 21, 2004, was incorrectly titled, ''Home-living Programs and School Closure and Consolidation.'' The title is corrected to read ''Implementation of the No Child Left Behind Act of 2001''.

Dated: July 21, 2004.

Theresa Rosier,

Counselor to the Assistant Secretary—Indian Affairs.

[FR Doc. 04–17071 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

[REG–163679–02]

RIN 1545–BB72

Qualified Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: These proposed regulations amend the regulations under the gift tax special valuation rules to provide that a unitrust amount or annuity payable for a specified term of years to the grantor, or to the grantor's estate if the grantor dies prior to the expiration of the term, is a qualified interest for the specified term. The proposed regulations also clarify that the exception treating a spouse's revocable successor interest as a retained qualified interest applies only if the spouse's annuity or unitrust interest, standing alone, would constitute a qualified interest that meets the requirements of § 25.2702–3(d)(3), but for the grantor's revocation power. This document also provides a notice of a public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by October 21, 2004. Outlines of topics to be discussed at the public hearing scheduled for October 28, 2004, must be received by October 7, 2004.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–163679–02), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–163679–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–163679–02). The public hearing will be held in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Juli Ro Kim, (202) 622–3090; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Guy Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 2702 provides special rules for valuing gifts in trust when the donor or an applicable family member retains an interest in the trust. If the retained interest is not a qualified interest, the retained interest is valued at zero, and the amount of the gift is the entire value of the transferred property. If the retained interest is a qualified interest, the retained interest is valued under section 7520 using prescribed actuarial tables and interest rates, and the amount of the gift is the value of the transferred property reduced by the value of the retained interest. Under section 2702(b), a qualified interest is: (1) An interest that consists of a right to receive fixed amounts payable not less frequently than annually (a qualified annuity interest); (2) an interest that consists of a right to receive amounts that are payable at least annually and are a fixed percentage of the net fair market value of the trust assets determined annually (a qualified unitrust interest); and (3) a right to receive a noncontingent remainder interest if all other interests in the trust are qualified annuity or unitrust interests (a qualified remainder interest). Under § 25.2702–3(d)(3) of the Gift Tax Regulations, the qualified annuity or unitrust interest must be payable, ''for the life of the term holder, for a specified term of years, or for the shorter (but not longer) of those periods.'' Under § 25.2702–2(a)(5) the retention of a power to revoke a qualified annuity interest (or unitrust interest) of the transferor's spouse is treated as the retention of a qualified annuity interest (or unitrust interest).

These qualified interest requirements were the subject of litigation in two cases (described more fully below) before the United States Tax Court and, on appeal in one case, the Ninth Circuit Court of Appeals. These proposed regulations are being issued to clarify the existing regulations with respect to the issues raised in the cases and to revise an example in the regulations that the Tax Court held to be invalid.

Walton v. Commissioner

In *Walton* v. *Commissioner*, 115 T.C. 589 (2000), the Tax Court considered a situation similar to that presented in *Example 5* of § 25.2702–3(e). In this example, A transfers property to an irrevocable trust, retaining the right to receive a unitrust amount for 10 years. If A dies within the 10-year term, the unitrust amount is to be paid to A's estate for the balance of the term. The example concludes that A's interest is a qualified unitrust interest to the extent of the right to receive the unitrust amount for 10 years or until A's prior death. The example also concludes, however, that the unitrust amount payable to A's estate if A dies within the term of the trust is not a qualified interest.

In *Example 6* of § 25.2702–3(e), the facts are the same as in *Example 5*, except that, if A dies within the 10-year term, the unitrust amount will be paid to A's estate for an additional 35 years. The example concludes that the result is the same as in *Example 5*; that is, A's interest is a qualified unitrust interest to the extent of the right to receive the unitrust amount for 10 years or until A's prior death.

In *Walton*, the grantor established a grantor retained annuity trust (GRAT), pursuant to which the grantor was to receive an annuity for a term of 2 years. If the grantor died before the expiration of the 2-year term, the annuity was to be paid to the grantor's estate for the balance of the term. Upon expiration of the 2-year term, the trust corpus was to be distributed to a designated remainder beneficiary. After considering the legislative history and purpose of section 2702, the court held that *Example 5* is an unreasonable interpretation and invalid extension of section 2702. The court concluded that a retained annuity payable for a specified term of years to the grantor, or to the grantor's estate if the grantor dies prior to expiration of the term, is a qualified interest under section 2702 for the specified term of years.

Schott v. Commissioner

As noted above, § 25.2702–2(a)(5) provides that the retention of a power to revoke a qualified annuity interest (or unitrust interest) of the transferor's spouse is treated as the retention by the transferor of a qualified annuity interest (or unitrust interest). Section 25.2702–2(d)(1), *Examples 6* and *7* illustrate the application of this rule.

In *Example 6* of § 25.2702–2(d)(1), A transfers property to an irrevocable trust, retaining the right to receive the income for 10 years. Upon the expiration of 10 years, the income of the trust is payable to A's spouse for 10 years, if living. Upon expiration of the spouse's interest, the trust terminates and the trust corpus is payable to A's child. A retains the right to revoke the spouse's interest. Because A has made a completed gift of the remainder interest, the transfer of property to the trust is not incomplete as to all interests in the property and section 2702 applies. A's power to revoke the spouse's term interest is treated as a retained interest for purposes of section 2702. The example concludes that, because neither one of the interests retained by A (that is, A's income interest and the spouse's revocable income interest) is a qualified interest, the amount of the gift is the fair market value of the property transferred to the trust.

In *Example 7* of § 25.2702–2(d)(1), the facts are the same as in *Example 6*, except that both the term interest retained by A and the interest transferred to A's spouse (subject to A's right of revocation) are qualified annuity or unitrust interests. The example concludes that the amount of the gift is the fair market value of the property transferred to the trust reduced by the value of both A's qualified interest and the qualified interest transferred to A's spouse (subject to A's power to revoke).

In *Schott* v. *Commissioner*, T.C.M. 2001–110, *rev'd and remanded* 319 F. 3d 1203 (9th Cir. 2003), the GRAT at issue provided for fixed annuity payments to the grantor for a 15-year term, or until the grantor's prior death. If the grantor died prior to the end of the 15-year term and the grantor's spouse survived the grantor, then the annuity was to be paid to the spouse for the balance of the 15-year term. The grantor retained the right to revoke the spouse's interest. The Tax Court, relying on its earlier opinion in *Cook* v. *Commissioner*, 115 T.C. 15 (2000), aff'd 269 F. 3d 854 (7th Cir. 2001), concluded that the successor spousal interest was not a qualified interest, and thus, that the successor spousal interest must be valued at zero. The court noted that the term of the revocable spousal interest was contingent upon the death of the grantor and thus was not fixed and ascertainable under the governing instrument as required by § 25.2702–3(d)(3). Further, because the revocable spousal interest was deemed to be an interest retained by the grantor, the possibility existed that the retained annuity interest could extend beyond the life of the term holder (the grantor) but for less than the specified 15-year term, which is not consistent with the requirement in § 25.2702–3(d)(3) that the qualified annuity or unitrust interest be payable ''for the life of the term holder, for a specified term of years, or for the shorter (but not longer) of those periods.'' The Tax Court, following its opinion in *Cook*, distinguished the *Schott* GRAT from § 25.2702–2(d)(1), *Example 7*, because, in the Court's view, in *Example 7*, the spouse or the estate of the spouse would receive the annuity regardless of whether the spouse was living at the end of the grantor's initial 10-year term. Thus, the court viewed the spouse's interest in *Example 7* as a noncontingent interest for a fixed term of years. In contrast, the *Schott* spousal interest would pass to the spouse only if the grantor died within the term of the trust and the spouse was living when the grantor died.

However, on appeal, the Ninth Circuit concluded that the *Schott* spousal interest was a qualified interest. The Ninth Circuit distinguished *Cook* because the revocable spousal interest in *Cook* was also contingent upon the grantor and the spouse being married to each other at the grantor's death, which could not be accounted for by an annuity table. Further, the Ninth Circuit rejected the Commissioner's contention that a spousal interest contingent on the death of the grantor lacks the fixed term required by the regulations. Rather, the court stated that every annuity given to a person, if living, is contingent on that person's survival. The court also stated that the present value of the spouse's interest (even if dependent on the grantor's death prior to expiration of the specified term) can be ascertained using the actuarial tables.

Explanation of Provisions

Walton v. Commissioner

In Notice 2003–72 (2003–44 I.R.B. 964) (released October 15, 2003), the IRS announced that it will follow the *Walton* decision. Consistent with Notice 2003–72, the proposed regulations revise *Example 5* and *Example 6* of § 25.2702–3(e) to conform to the *Walton* decision. Under the examples as revised, a unitrust amount payable for a specified term of years to the grantor, or to the grantor's estate if the grantor dies prior to the expiration of the term, is a qualified interest for the specified term. Thus, in *Example 5*, the interest of A (and A's estate) to receive the unitrust amount for a specified term of 10 years in all events is a qualified interest. Similarly, in *Example 6*, the unitrust interest, to the extent payable to either A or A's estate for a 10-year period in all events, is a qualified interest for a 10-year term. However, in *Example 6*, the interest of A's estate to receive the unitrust amount after the 10-year period

for the remaining balance of the additional 35-year term if A dies within the 10-year period, is a contingent interest that is not fixed or ascertainable at the creation of the interest and, therefore, is not a qualified interest.

The result in *Example 6*, in which only a discrete portion of the grantor's retained 35-year unitrust interest (specifically, that portion payable in all events for a 10-year term) is a qualified interest, does not change the result in *Example 1* of § 25.2702–3(e). In *Example 1*, A retains the right to receive an annuity for a 10-year term, or until A's prior death. If A dies prior to the expiration of the 10-year term, the entire trust corpus reverts to A's estate. The example concludes that the estate's contingent reversion is valued at zero, notwithstanding that, economically, this reversion of the entire trust corpus includes the equivalent value of the annuity that would be payable for the balance of the 10-year term. The Tax Court in *Walton* addressed *Example 1*, noting that, in the case of a reversion, even though the equivalent of the term annuity's value would be payable to the grantor or the grantor's estate in all events, Congress was entitled to require that interests be cast in one of three specified forms to receive the favorable treatment afforded qualified interests. The Court stated ''* * * the Commissioner is equally justified in assigning a zero value to reversionary interests outside the scope of the statutory definition and refusing to consider whether such interests can have the practical effect of a different form of interest not chosen by the grantor. See § 25.2702–3(e), *Example (1)*, Gift Tax Regs.'' *Walton*, 115 T.C. at 602. Thus, in *Example 1*, the reversion, even though including the equivalent value of an annuity payable for the balance of the 10-year term, is not in a qualified form prescribed by the statute and is, therefore, not a qualified interest to any extent. On the other hand, in *Example 6* of § 25.2702–3(e), the retained interest is in the form of a unitrust interest and, therefore, is a qualified interest to the extent payable to A or A's estate for a 10-year period in all events.

Schott v. Commissioner

The proposed regulations also clarify when a revocable spousal interest is a qualified interest.

Sections 2702(a)(3)(A)(i) and (B) confirm that the valuation rules of section 2702 do not apply to a gift that is incomplete. Section 25.2702–2(a)(5) provides a regulatory exception to this statutory rule by providing that the retention of a power to revoke a qualified annuity or unitrust interest of the transferor's spouse is a qualified interest. The annuity or unitrust interest payable to the transferor's spouse must be a qualified interest to meet this exception. Thus, the regulatory exception focuses on the spouse's annuity or unitrust interest and applies only if that interest is a qualified interest as described in § 25.2702–3(d).

The references to ''term holder'' in § 25.2702–3(d)(3) or ''holder of the qualified * * * interest'' in § 25.2702–3(b) and (c) refer to the person to whom the annuity or unitrust interest is payable during the fixed term. In the case of a revocable successor interest held by the transferor's spouse, although the spouse's interest (if qualified) is valued as a retained qualified interest of the transferor and may thus be deducted from the total value of the assets transferred in computing the taxable gift under section 2702, the spouse is the holder during the period when an interest is payable to the spouse. Thus, each qualified interest must meet the fixed duration requirements of § 25.2702–3(d)(3), and each holder's separate interest must be valued as a single life annuity or unitrust interest.

In addition to the requirement that a qualified interest be for a fixed term, payment of the interest cannot be contingent on any event other than the survival of the term holder (subject to the transferor's retained right of revocation). A revocable spousal interest is contingent, and therefore not a qualified interest, if the spouse will not receive any payments if the transferor survives the fixed term during which the transferor is the holder.

Section 25.2702–2(d)(1), *Example 7,* illustrates the revocable spousal interest exception. In *Example 7,* beginning at the expiration of a 10-year term, the spouse's annuity is payable to the spouse for 10 years or until the spouse's prior death. Thus, the spouse's annuity in the example meets the requirements of § 25.2702–3(d)(3), that the term of the annuity must be for either the life of the holder (the spouse), for a specified term of years, or for the shorter but not the longer of these two periods and, assuming the spouse survives until the commencement of his or her interest, the spouse will receive that interest in all events (subject to the transferor's retained right of revocation). In contrast, in *Schott,* the spouse's annuity does not meet the requirements of § 25.2702–3(d)(3) because the spousal annuity is payable, if at all, only if the grantor dies prior to the termination of the term of the trust and, if payable at all, is payable for a period that depends on the length of the unexpired portion of the trust's term when the grantor dies.

The proposed regulations clarify that the revocable spousal interest exception applies only if the spouse's interest, standing alone, would constitute a qualified interest that meets the requirements of § 25.2702–3(d)(3), but for the grantor's revocation power.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these proposed regulations, and because these proposed regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations will be submitted to the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely (in the manner described in **ADDRESSES** of this preamble) to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 28, 2004, at 10 a.m. in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit comments by October 21, 2004, and submit an outline of the

topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by October 7, 2004.

A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Juli Ro Kim, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. Other personnel from the IRS and the Treasury Department participated in their development. If you have any questions concerning these proposed regulations, please contact Ms. Kim at (202) 622–3090.

List of Subjects in 26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 25 is proposed to be amended as follows:

PART 25—Gift Tax; GIFTS MADE AFTER DECEMBER 31, 1954

Paragraph 1. The authority citation for part 25 continues to read, in part, as follows:

Authority: 25 U.S.C. 7805 * * *

Par. 2. In § 25.2702–0, the table is amended as follows:

1. The entries for § 25.2702–2(a)(5) through § 25.2702–2(a)(9) are redesignated as § 25.2702–2(a)(6) through § 25.2702–2(a)(10), respectively.

2. A new entry for § 25.2702–2(a)(5) is added.

3. The entries for § 25.2702–3(d)(2) through § 25.2702–3(d)(4) are redesignated as § 25.2702–3(d)(3) through § 25.2702–3(d)(5), respectively.

4. A new entry for § 25.2702–3(d)(2) is added.

5. An entry for § 25.2702–3(d)(6) is added.

The additions read as follows:

§ 25.2702–0 Table of contents.

* * * * *

§ 25.2702–2 Definitions and valuation rules.

(a) * * *

(5) Holder.

* * * * *

§ 25.2702–3 Qualified interests.

* * * * *

(d) * * *

(2) Contingencies.

* * * * *

(6) Use of debt obligations to satisfy the annuity or unitrust payment obligation.

* * * * *

Par. 3. Section 25.2702–2 is amended as follows:

1. Paragraphs (a)(5) through (a)(9) are redesignated as paragraphs (a)(6) through (a)(10), respectively.

2. A new paragraph (a)(5) is added.

3. In redesignated paragraph (a)(6), the second sentence is removed and two sentences are added in its place.

4. In paragraph (d)(1), *Example 6* and *Example 7* are removed.

5. In paragraph (d)(2), introducing text, the phrase ''Examples 8–10'' is revised to read ''Examples 6 through 8''.

6. In paragraph (d)(2), *Examples 8, 9* and *10* are redesignated *Examples 6, 7* and *8,* respectively.

The additions read as follows:

§ 25.2702–2 Definitions and valuation rules.

(a) * * *

(5) *Holder.* The holder is the person to whom the annuity or unitrust interest is payable during the fixed term of that interest. References to holder shall also include the estate of that person.

(6) * * * If a transferor retains a power to revoke a qualified annuity interest or qualified unitrust interest of the transferor's spouse, then the revocable qualified annuity or unitrust interest of the transferor's spouse is treated as a retained qualified interest of the transferor. In order for the transferor to be treated as having retained a qualified interest under the preceding sentence, the interest of the transferor's spouse (the successor holder) must be an interest that meets the requirements of a qualified annuity interest in accordance with § 25.2702–3(b) and (d), or a qualified unitrust interest in accordance with § 25.2702–3(c) and (d), but for the transferor's retained power to revoke the interest.

* * * * *

Par. 4. Section 25.2702–3 is amended as follows:

1. Paragraphs (d)(2) through (d)(5) are redesignated as paragraphs (d)(3) through (d)(6), respectively.

2. A new paragraph (d)(2) is added.

3. In redesignated paragraph (d)(4), the first two sentences are revised.

4. Redesignated paragraph (d)(5) is revised.

5. In paragraph (e), *Example 5,* the last sentence is revised.

6. In paragraph (e), *Example 6,* the last sentence is removed and two new sentences are added in its place.

7. In paragraph (e), new *Example 8* and new *Example 9* are added.

The revisions and additions read as follows:

§ 25.2702–3 Qualified interests.

* * * * *

(d) * * *

(2) *Contingencies.* A holder's qualified interest must be payable in any event to or for the benefit of the holder for the fixed term of that interest. Thus, payment of the interest cannot be subject to any contingency other than either the survival of the holder until the commencement, or throughout the term, of that holder's interest, or, in the case of a revocable interest described in § 25.2702–2(a)(6), the transferor's right to revoke the qualified interest of that transferor's spouse.

* * * * *

(4) *Term of the annuity or unitrust interest.* The governing instrument must fix the term of the annuity or unitrust and the term of the interest must be fixed and ascertainable at the creation of the trust. The term must be for the life of the holder, for a specified term of years, or for the shorter (but not the longer) of those periods. * * *

(5) *Commutation.* The governing instrument must prohibit commutation (prepayment) of the interest of the holder.

* * * * *

(e) * * *

Example 5. * * * The interest of A (and A's estate) to receive the unitrust amount for the specified term of 10 years in all events is a qualified unitrust interest for a term of 10 years.

Example 6. * * * As in *Example 5*, the interest of A (and A's estate) to receive the unitrust amount for a specified term of 10 years in all events is a qualified unitrust interest for a term of 10 years. However, the right of A's estate to continue to receive the unitrust amount after the expiration of the 10-year term if A dies within that 10-year period is not fixed and ascertainable at the creation of the interest and is not a qualified unitrust interest.

* * * * *

Example 8. A transfers property to an irrevocable trust, retaining the right to receive an annuity equal to 6 percent of the initial net fair market value of the trust property for 10 years, or until A's prior death. At the expiration of the 10-year term, or on A's death prior to the expiration of the 10-year term, the annuity is to be paid to B, A's spouse, if then living, for 10 years or until B's prior death. A retains the right to revoke B's interest. Upon expiration of B's interest (or if A revokes B's interest, or if B predeceases A, then on the expiration of A's interest), the trust terminates and the trust corpus is payable to A's child. Because A has made a completed gift of the remainder interest, the transfer of property to the trust

is not incomplete as to all interests in the property and section 2702 applies. A's annuity interest (A's right to receive the annuity for 10 years, or until A's prior death) is a retained interest that is a qualified annuity interest under paragraphs (b) and (d) of this section. In addition, because A has retained the power to revoke B's interest, B's interest is treated as an interest retained by A for purposes of section 2702. B's successive annuity interest otherwise satisfies the requirements for a qualified interest contained in paragraph (d) of this section, but for A's power to revoke. The term of B's interest is specified in the governing instrument and is fixed and ascertainable at the creation of the trust, and B's right to receive the annuity is contingent only on B's survival, and A's power to revoke. Following the expiration of A's interest, the annuity is to be paid for a 10-year term or for B's (the successor holder's) life, whichever is shorter. Accordingly, A is treated as retaining B's revocable qualified annuity interest pursuant to § 25.2702–2(a)(6). Because both A's interest and B's interest are treated as qualified interests retained by A, the value of the gift is the value of the property transferred to the trust less the value of both A's qualified interest and B's qualified interest (subject to A's power to revoke), each valued as a single-life annuity. Further, if A revokes B's interest prior to the commencement of that interest, A is treated as making a completed gift at that time to A's child. The amount of the gift would be the present value of B's interest determined under section 7520 and the applicable regulations, as of the date the interest is revoked. *See* § 25.2511–2(b) and (f).

Example 9. (i) A transfers property to an irrevocable trust, retaining the right to receive 6 percent of the initial net fair market value of the trust property for 10 years, or until A's prior death. If A survives the 10-year term, the trust terminates and the trust corpus is payable to A's child. If A dies prior to the expiration of the 10-year term, the annuity is payable to B, A's spouse, if then living, for the balance of the 10-year term, or until B's prior death. A retains the right to revoke B's interest. Upon expiration of B's interest (or upon A's death if A revokes B's interest), the trust terminates and the trust corpus is payable to A's child. As is the case in Example 8, A's retained annuity interest (A's right to receive the annuity for 10 years, or until A's prior death) is a qualified annuity interest under paragraphs (b) and (d) of this section. However, B's interest does not meet the requirements of paragraph (d) of this section. The term of B's annuity is not fixed and ascertainable at the creation of the trust, because it is not payable for the life of B, a specified term of years, or for the shorter of those periods. Rather, B's annuity is payable for an unspecified period that will depend upon the number of years left in the original term after A's death. Further, B's annuity is payable only if A dies prior to the expiration of the 10-year term. Thus, payment of B's annuity is not dependent solely on B's survival, but rather is dependent on A's failure to survive.

(ii) Accordingly, the amount of the gift is the fair market value of the property transferred to the trust reduced by the value of A's qualified interest (A's right to receive the stated annuity for 10 years or until A's prior death). B's interest is not a qualified interest and is thus valued at zero under section 2702.

* * * * *

Par. 5. Section 25.2702–7 is amended to add two new sentences at the end of that section. The addition reads as follows:

§ 25.2702–7 Effective dates.

* * * Section 25.2702–2(a)(5), the second and third sentences of § 25.2702–2(a)(6), § 25.2702–3(d)(2), the first two sentences of § 25.2702–3(d)(4), the last sentence of § 25.2702–3(e), *Example 5*, the last two sentences of § 25.2702–3(e), *Example 6*, and § 25.2702–3(e), *Examples 8* and *9*, are effective for trusts created on or after July 26, 2004. However, the Internal Revenue Service will not challenge any prior application of the changes to *Examples 5* and *6* in § 25.2702–3(e).

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 04–16593 Filed 7–23–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AA98

Low- and Medium-Voltage Diesel-Powered Electrical Generators

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; notice of public hearings; close of comment period.

SUMMARY: We are announcing that we will hold four public hearings on the proposed rule to amend the existing standards concerning protection of low- and medium-voltage three-phase circuits used underground to allow the use of low- and medium-voltage diesel-powered electrical generators as an alternative means of powering electrical equipment. The rule would eliminate the need for mine operators to file petitions for modification to use these generators to power electrical equipment while maintaining the existing level of protection for miners.

The hearings will be held on the same days, in the same locations, as the MSHA public hearings for the High Voltage Continuous Mining Equipment Standards (HVCM) proposed rule. These hearings will follow the HVCM hearings, and will begin in the afternoon. The announcement of the HVCM hearings was published in a separate **Federal Register** notice on Friday, July 16, 2004 (69 FR 42812).

DATES: All comments on the proposed rule, including post-hearing comments, must be received by October 14, 2004, the close of the comment period.

The public hearing dates and locations are listed in the Public Hearings section under **SUPPLEMENTARY INFORMATION**. Individuals or organizations wishing to make oral presentations for the record should submit a request at least 5 days prior to the hearing dates. However, commenters do not need to submit a request in advance in order to speak at the hearing.

ADDRESSES: You may submit comments, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *Comments@MSHA.gov.* Include RIN 1219–AA98 in the subject line of the message.
- Fax: (202) 693–9441.
- Mail/Hand Delivery/Courier: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209–3939.

Instructions: All submissions must reference MSHA and RIN 1219–AA98, (the Regulatory Information Number for this rulemaking).

Docket: To access comments received, go to *http://www.MSHA.gov* or MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia. All comments received will be posted without change to *http://www.msha.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939. Mr. Nichols can be reached at *nichols.marvin@dol.gov* (Internet E-mail), (202) 693–9440 (voice), or (202) 693–9441 (facsimile). This notice is available on the Internet at *http://www.msha.gov/REGSINFO.HTM.*

SUPPLEMENTARY INFORMATION:

I. Background Information

On June 25, 2004, (69 FR 35992) we published a proposed rule in the **Federal Register** that would amend the existing standards concerning protection of low- and medium-voltage three-phase circuits used underground to allow the use of low- and medium-

voltage diesel-powered electrical generators as an alternative means of powering electrical equipment. The generators are portable and are used to power electrical equipment when moving the equipment in, out, and around the mine and when performing work in areas where permissible equipment is not required. The rule would eliminate the need for mine operators to file petitions for modification to use these generators to power electrical equipment while maintaining the existing level of protection for miners.

Since publication of the proposed rule, we have received a request for a hearing on the rule.

II. Public Hearings

We will hold four public hearings on the same days, in the same locations, as the MSHA public hearings for the HVCM standards. The hearings addressing HVCM will begin at 9 a.m. local time each day; the hearings addressing this proposed rule, Low- and Medium-Voltage Diesel Powered Electrical Generators, will be held on the same days, beginning at 1 p.m. and will end after the last speaker testifies. The hearings will be held on the following dates at the locations indicated:

Date	Location	Telephone
September 21, 2004	Sheraton Birmingham, 2101 Richard Arrington Jr. Blvd. North, Birmingham, Alabama 35203.	(205) 324–5000
September 23, 2004	Sheraton Suites Lexington, 2601 Richmond Road, Lexington, Kentucky 40509	(859) 268–0060
September 28, 2004	Little America Hotel, 500 S Main Street, Salt Lake City, Utah 84101	(801) 363–6781
September 30, 2004	Hyatt Regency Pittsburgh International Airport, 1111 Airport Road, Pittsburgh, Pennsylvania 15231.	(724) 899-1234

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. You do not have to make a written request to speak; however, speakers who make a request in advance will speak first. Any unalloted time will be made available for commenters making same-day requests for oral presentations. These commenters will speak in the order they sign in. At the discretion of the presiding official, the time allocated to speakers for their presentation may be limited. Speakers and attendees may also present information to the MSHA panel for inclusion in the rulemaking record.

The hearings will be conducted in an informal manner. The hearing panel may ask questions of speakers. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress of the hearing and may exclude irrelevant or unduly repetitious material and questions.

A verbatim transcript of the proceedings will be included in the rulemaking record. Copies of this transcript will be available to the public, and can be viewed at *http://www.msha.gov.*

We will accept post-hearing written comments and other appropriate data for the record from any interested party, including those not presenting oral statements, prior to the close of the October 14, 2004 post-hearing comment period.

Dated: July 21, 2004.

Dave D. Lauriski,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 04–16903 Filed 7–23–04; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7791–4]

Maryland: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Maryland has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Maryland. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we receive written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. However, if we receive comments that oppose this action, or portions thereof, we will withdraw the relevant portions of the immediate final rule, and they will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by August 25, 2004.

ADDRESSES: Submit your comments, identified by FRL–7791–4 by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. E-mail: *johnson.carol@epamail.epa.gov*.

3. Mail: Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.

4. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

You may inspect and copy Maryland's application from 8:30 a.m. to 4:30 p.m., Monday through Friday at the following addresses: Maryland Department of the Environment, Waste Management Administration, Hazardous Waste Program, 1800 Washington Blvd., Suite 645, Baltimore, Maryland 21230–1719, Phone number: (410) 537–3345, attn: Ed Hammerberg, and the EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

Instructions: Direct your comments to FRL–7791–4. EPA's policy is that all comments received will be included in the public docket without change,

including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The federal *regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Carol Johnson, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3378.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: July 12, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 04–16943 Filed 7–23–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7790–4]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Mid-America Tanning Co. Superfund site (site) from the National Priorities List (NPL).

SUMMARY: The EPA Region VII is issuing a notice of intent to delete the Mid-America Tanning Co. Superfund site (site) located near Sergeant Bluff, Iowa, from the NPL and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the state of Iowa through the Iowa Department of Natural Resources (IDNR) have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Mid-America Tanning Co. Superfund site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this site must be received by August 25, 2004.

ADDRESSES: Written comments should be addressed to Bob Stewart, Remedial Project Manager, Superfund Division, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, KS 66101.

FOR FURTHER INFORMATION CONTACT: Bob Stewart, Remedial Project Manager, U.S. EPA Region VII, Superfund Division, Missouri/Kansas Branch, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551–9654, or 1–800–223–0425.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Information concerning this deletion decision can be found in the Deletion Docket at the information repositories at the following locations: U.S. EPA Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101 and at the IDNR, Henry A. Wallace Building, 900 East Grand, Des Moines, IA 50319.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: June 21, 2004.

James B. Gulliford,

Regional Administrator, Region VII.

[FR Doc. 04–16727 Filed 7–23–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–2060, MB Docket No. 04–250, RM–11006]

Digital Television Broadcast Service; Medical Lake, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Thomas Desmond proposing the allotment of DTV channel 51 to Medical Lake, Washington, as the community's first local commercial television service. DTV Channel 51 can be allotted to Medical Lake, Washington, at reference coordinates 47–34–12 N. and 117–41–32 W. Since the community of Medical Lake is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment.

DATES: Comments must be filed on or before September 9, 2004, and reply comments on or before September 24, 2004.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving

petitions for rule making (except in broadcast allotment proceedings). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Thomas S. Desmond, 3216 Verbena Drive, Plano, Texas 75075 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 04–250, adopted July 8, 2004, and released July 19, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 301–816–2820, facsimile 301–816–0169, or via-e-mail *joshir@erols.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Washington is amended by adding Medical Lake, DTV channel 51.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 04–16891 Filed 7–23–04; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 69, No. 142
Monday, July 26, 2004

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 20, 2004.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Pamela_Beverly_OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office,, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Aquaculture Survey.

OMB Control Number: 0535–0150.

Summary of Collection: The primary function of the National Agricultural Statistics Service is to estimate production and stocks of agricultural food, fiber, and specialty commodities. Congress has mandated the collection of basic data for aquaculture and provides funding for these surveys. Public Law 96–362 was passed to increase the overall effectiveness and productivity of federal aquaculture programs by improving coordination and communication among Federal agencies involved in those programs. Aquaculture is an alternative method to produce a high protein, low fat product demanded by the consumer. Aquaculture surveys provide information on trout and catfish inventory, acreage and sales as well as catfish processed.

Need and Use of the Information: The survey results is useful in analyzing changing trends in the number of commercial operations and production levels by State. The information collected is used to demonstrate the growing importance of aquaculture to officials of Federal and State government agencies who manage and direct policy over programs in agriculture and natural resources. The type of information collected and reported provides extension educators and research scientists with data that indicates important areas that require special education and/or research efforts, such as causes for losses of fish and pond inventories of fish of various sizes. The data gathered from the various reports provide information to establish contract levels for fishing programs and to evaluate prospective loans to growers and processors.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 2,346.

Frequency of Responses: Reporting: Monthly; Semi-annually; Annually.

Total Burden Hours: 840.

National Agricultural Statistics Service

Title: Conservation Effects Assessment Survey.

OMB Control Number: 0535–0245.

Summary of Collection: The National Agricultural Statistics Service (NASS) primary function is to prepare and issue official State and national estimates of crop and livestock production, disposition and prices. The information collection is used to assist the Natural Resources Conservation Service in assessing environmental benefits associated with implementation of various conservation programs and installation of associated conservation practices. The authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: The findings will be used to report progress annually on Farm Bill implementation and the cost effectiveness of the Environmental Quality Incentives Program and the Conservation Reserve Program. If this collection is not conducted annually, the impact of the conservation programs over time cannot be measured.

Description of Respondents: Farms.

Number of Respondents; 12,400.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 10,253.

Rural Utility Service

Title: Assistance to High cost Energy Rural communities.

OMB Control Number: 0572–0136.

Summary of Collection: The Rural Electrification Act of 1936 (RE Act) (7 U.S.C. 901 *et seq.*) was amended in November 2000 to create new grant and loan authority to assist rural communities with extremely high energy costs (Pub. L. 106–472). This amendment gives authorization to Rural Utilities Service (RUS) to provide competitive grants for energy generation, transmission, or distribution facilities serving communities in which the national average is at least 275% for residential expenditure for home energy. All applicants are required to submit a project proposal containing the elements in the prescribed format.

Need and Use of the Information: USDA will collect information from applicants to confirm that the eligibility requirements and the proposals are consistent with the purposes set forth in the statute. Various forms and progress reports are used to monitor compliance with grant agreements, track expenditures of Federal funds and measure the success of the program. Without collecting the listed

information, USDA will not be assured that the projects and communities served meet the statutory requirements for eligibility or that the proposed projects will deliver the intended benefits.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 45.

Frequency of Responses: Recordkeeping: Reporting: On occasion.

Total Burden Hours: 898.

Rural Housing Service

Title: 7 CFR 1951–N, Servicing Cases Where Unauthorized Loan or Other Financial assistance was received—Multiple Family Housing.

OMB Control Number: 0575–0104.

Summary of Collection: Office of Inspector General or through regular visits by Rural Development personnel identify cases of unauthorized assistance. Unauthorized assistance may in the form of a loan, grant, interest subsidy benefit created through use of an incorrect interest rate, interest credits or rental assistance extended to a Multi-Family Housing borrower or grantee by Rural Housing Service (RHS). The legislative authority for requiring the collection of unauthorized assistance is contained in section 510 of the Housing Act of 1949, as amended (42 U.S.C. 1480). RHS has published its own regulation, consistent with the Federal Claims Act, through which it can better assist the recipients of RHS assistance and still adequately protect the Government's interest. THe information collected under the provisions of this regulation is proved on a voluntary basis by the recipient of the assistance in question, although failure to cooperate in effecting requiring corrections to loan accounts may result in loss or reduction of benefits or liquidation of the loan. The information collected will primarily be financial data relating to income and expenses.

Need and Use of the Information: The information required by this regulation is collected from Multi-Family Housing borrowers (who may be individuals, partnerships, private or nonprofit corporations or public bodies) and from tenants who reside in the borrower's rental projects. Tenants who refuse to cooperate or provide information may lose their subsidy or tenancy. The collections are made from RHS borrowers on an individual case. If this regulation is not continued, the cases involving unauthorized financial assistance would remain unresolved and many borrowers would keep financial benefits for which they did not qualify under RHS loan regulations.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 450.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 800.

Agricultural Marketing Service

Title: USDA Food and Commodity Connection Web site.

OMB Control Number: 0581–NEW.

Summary of Collection: The USDA Food and Commodity Connection Web site is being developed to assist the institutional food service community across the United States. The Web site focuses on providing information to institutional food service professions, as well as providing a platform for processors, distributors, and brokers to post information about their processed USDA supplied commodities and other commercial food products available for institutional food service purchase. The USDA Food and Commodity Connection Website is a public website and the information provided is considered as public information.

Need and Use of the Information: At the time of registration, the USDA Food Commodity Connection Web site will collect all information electronically. Registrants are authorized to use the website by their individual login and password. Once the registrant is registered, they are required to provide additional information. No information is collected from a user when they access the Web site as a guest.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 800.

Frequency of Responses: Reporting: Other (One Time).

Total Burden Hours: 3,942.

Agricultural Marketing Service

Title: National Research, Promotion, and Consumer Information Programs.

OMB Control Number: 0581–0093.

Summary of Collection: The U.S. Department of Agriculture has the responsibility for implementing and overseeing programs for a variety of commodities including cotton, diary, eggs, beer, pork, soybeans, honey, potatoes, watermelons, mushrooms, kiwifruit, popcorn, and olive oil. Various Acts authorizes these programs to carry out projects relating to research, consumer information, advertising, sales promotion, producer information, market development and product research to assist, improve, or promote the marketing, distribution, and utilization of their respective commodities. The Agricultural Marketing Service (AMS) has the responsibility to appoint board members and approve the boards' budgets, plans, and projects. AMS objective in carrying out this responsibility is to assure the following: (1) Funds are collected and properly accounted for; (2) expenditures of all funds are for the purposes authorized by enabling legislation; and (3) the board's administration of the programs conforms to USDA policy.

Need and Use of the Information: The boards administer the various programs utilizing variety of forms to carry out their responsibilities. Only authorized employees of the various boards and USDA employees will use the information collected. If this data were collected less frequently, (1) it would hinder data needed to collect and refund assessments in a timely manner and result in delayed or even lost revenue; (2) boards would be unable to carry out the responsibilities of their respective Acts; and (3) requiring reports less frequently than monthly would impose additional record keeping requirements.

Description of Respondents: Business or other for profit, Farms, Federal Government.

Number of Respondents: 321,098.

Frequency of Responses: Record-keeping; Reporting: On occasion, Weekly, Monthly, Semi-annually, Annually.

Total Burden Hours: 344,318.

Sondra Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 04–16939 Filed 7–23–04; 8:45 am]

BILLING CODE 3410–20–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–041–2]

Availability of Environmental Assessment for Field Test of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: We are extending the comment period for our notice that advises the public about the environmental assessment the Animal and Plant Health Inspection Service has prepared for a confined field of corn

plants genetically engineered to express the protein trypsinogen. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before August 10, 2004.

ADDRESSES: You may submit comments by any of the following methods:

• Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04–041–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–041–1.

• E-mail: Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 04–041–1'' on the subject line.

• Agency Web Site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.

Reading Room: You may read the environmental assessment and any comments that we receive in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Michael Wach, BRS, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–0485. To obtain a copy of the environmental assessment, contact Ms. Kay Peterson at (301) 734–4885; e-mail: *Kay.Peterson@aphis.usda.gov.* The environmental assessment is also available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/04_11402r_ea.pdf.*

SUPPLEMENTARY INFORMATION:

On June 25, 2004, we published in the **Federal Register** (69 FR 35573–35574, Docket No. 04–041–1) a notice advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment for a confined field of corn plants genetically engineered to express the protein trypsinogen.

Comments on the notice were required to be received on or before July 26, 2004. We are extending the comment period on Docket No. 04–041–1 for an additional 15 days, ending August 10, 2004. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 1622n and 7701–7772; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 22nd day of July 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–17026 Filed 7–23–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–044–2]

Availability of Environmental Assessment for Field Test of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: We are extending the comment period for our notice that advises the public about the environmental assessment the Animal and Plant Health Inspection Service has prepared for a confined field of corn plants genetically engineered to express the protein aprotinin. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before August 10, 2004.

ADDRESSES: You may submit comments by any of the following methods:

• Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04–044–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–044–1.

• E-mail: Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 04–044–1'' on the subject line.

• Agency Web site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.

Reading Room: You may read the environmental assessment and any comments that we receive in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. James White, BRS, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5940. To obtain a copy of the environmental assessment, contact Ms. Kay Peterson at (301) 734–4885; e-mail: *Kay.Peterson@aphis.usda.gov.* The environmental assessment is also available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/04_12101r_ea.pdf.*

SUPPLEMENTARY INFORMATION: On June 25, 2004, we published in the **Federal Register** (69 FR 35574–35575, Docket No. 04–044–1) a notice advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment for a confined field of corn plants genetically engineered to express the protein aprotinin.

Comments on the notice were required to be received on or before July 26, 2004. We are extending the comment period on Docket No. 04–044–1 for an additional 15 days, ending August 10, 2004. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 1622n and 7701–7772; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 22nd day of July, 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–17027 Filed 7–23–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–007–1]

Process for Foreign Animal Disease Status Evaluations; Availability of Informational Document

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) has prepared an informational document that describes the process APHIS follows when conducting foreign animal disease status evaluation, regionalization, risk analysis, and related rulemaking. We are making this informational document available to the public.

ADDRESSES: You may request a copy of the informational document by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. The informational document is being posted on the Internet as a public resource. Instructions for accessing the informational document on the Internet are provided below under **SUPPLEMENTARY INFORMATION.**

Reading Room: You may also read the informational document in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Anne Goodman, Supervisory Staff Officer, Regionalization Evaluation Services, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–8667.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (the Department) regulates the importation of animals and animal products to guard against the introduction of animal diseases into this country. The regulations pertaining to the importation and exportation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

On October 28, 1997, APHIS published a notice in the **Federal Register** (62 FR 56027–56033, Docket No. 94–106–8) in which we informed the public we were adopting a policy of recognizing regions, and levels of risk among those regions, with regard to the importation of animals and animal products. That same day, we published in the **Federal Register** a final rule (62 FR 56000–56026, Docket No 94–106–9) in which we established procedures (1) for recognizing regions, and (2) by which regions may request permission to export animals and animal products into the United States under specified conditions, based on the regions' disease status.

The procedures set forth in our October 1997 final rule are the procedures that we use today in accepting and evaluating requests for regionalization. When a chief veterinary officer (CVO) of a foreign region requests consideration for regionalization and permission to import animals and animal products into the United States, we ask that the request include information about the region's animal disease status, veterinary infrastructure, livestock demographics, and degree of physical or other separation from regions of higher disease risk. (A list of the topics for which we require information is included in the regulations in 9 CFR 92.2.) Using the information provided by the CVO of the region, along with information available to us from other sources, we use a science-based approach to evaluate whether such importations can be safely allowed, either with or without risk mitigation measures.

As part of our process of considering a request for regionalization or other disease status recognition, we make available to the public the information upon which we conducted our evaluation. This information is posted to the APHIS Veterinary Services Web site and is discussed in any rulemaking documents we publish in the **Federal Register** regarding our evaluation of the request.

However, until now we have not made available to the public a document that describes the way in which APHIS applies risk analysis to the decisionmaking process for regionalization. We believe that, in order for our evaluation process to be transparent to both domestic entities and individuals, as well as to our trading partners, a description of that process should be made available to the public. The purpose of this notice is to inform the public that such a document is available and may be accessed by several means (discussed below).

The document, titled ''Process for Foreign Animal Disease Status Evaluations, Regionalization, Risk Analysis, and Rulemaking,'' describes the following:

- The process for initiation of an evaluation;
- The composition of the review teams that participate in various components of the evaluation;
- The role of site visits in evaluations;
- The types of risk analyses that are conducted and the situations in which different types of analyses are used;
- The assignment of responsibility for conduct of risk analysis;
- The basis for recommendations to APHIS management regarding requests;
- The regulatory process APHIS follows to seek public comment on recommendations to recognize regions and allow the requested importations; and
- Time considerations from initial request to final rulemaking.

Accessing the Informational Document on the Internet

The informational document is available on the Internet at *http://www.aphis.usda.gov/vs/ncie/reg-request.html*. At the bottom of that Web site page, click on *http://www.aphis.usda.gov/vs/ncie/reg-request.html*.

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 20th day of July, 2004.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–16926 Filed 7–23–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Colville Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Colville Resource Advisory Committee will meet on

Thursday, July 29, 2004, at the Spokane Community College, Colville Campus, Monumental Room, 985 South Elm Street, Colville, Washington. The meeting will begin at 9 a.m. and conclude at 4 p.m. Agenda items include: (1) Review and approve meeting notes from June 29, 2004 meeting; (2) Fiscal Year 2005 Title II projects review and recommendation to the forest designated official on Pend Oreille County applications; and (3) Public Forum.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Rick Brazell, Designated Federal Official or to Cynthia Reichelt, Public Affairs Officer, Colville National Forest, 765 S. Main, Colville, Washington 99114, (509) 684–7000.

Dated: July 13, 2004.

Donald N. Gonzalez,

Acting Forest Supervisor.

[FR Doc. 04–16488 Filed 7–23–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Chairman Report (5) Sub-Committee Break-out, (6) Update on Re-Applications, (7) Project Proposal Acceptance Date, (8) General Discussion, (9) Next Agenda.

DATES: The meeting will be held on August 12, 2004 from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, P.O. Box 164, Elk Creek, CA 95939. (530) 968–5329; e-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by August 10, 2004 will have the opportunity to address the committee at those sessions.

Dated: July 19, 2004.

James F. Giachino,

Designated Federal Official.

[FR Doc. 04–16924 Filed 7–23–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 991215339–4192–12]

National Technical Assistance, Training, Research, and Evaluation

AGENCY: Economic Development Administration (EDA), Department of Commerce (DOC).

ACTION: Notice and request for proposals.

SUMMARY: The mission of EDA is to lead the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. Through the National Technical Assistance, Training, Research and Evaluation Program (NTA Program), EDA will work towards fulfilling its mission by funding research and technical assistance projects to promote competitiveness and innovation in urban and rural regions throughout the United States and its territories. By working in conjunction with its research partners, EDA will assist states, local governments and community based organizations to achieve their highest economic potential.

EDA is soliciting proposals to undertake research and provide technical assistance: (1) Addressing Competitiveness and Innovation in Rural U.S. Regions and Developing and Analyzing Rural Clusters of Innovation and Linking Rural and Metropolitan Regions; and (2) Information Dissemination to Practitioners Serving Distressed Areas.

This competitive solicitation request was previously published as part of a larger competitive solicitation in the **Federal Register** on April 30, 2004 (69 FR 23727), as well as on *www.grants.gov* and on EDA's Web site at *www.eda.gov.* EDA is re-soliciting proposals for the projects listed below due to the receipt of proposals that EDA, in its discretion, determined were non-responsive to the original solicitation and thus determined to be unsuitable for funding.

DATES: Proposals for funding under this program must be received by the EDA representative listed below no later than August 25, 2004 at 4 p.m. (e.d.t.). Proposals received after 4 p.m. (e.d.t.) on August 25, 2004, will not be considered for funding. By September 9, 2004, EDA will notify proponents whether they will be given further funding consideration and will invite successful proponents to submit a formal application. Projects should expect to receive funding by September 30, 2004; however, there is no guarantee that proponents invited by EDA to submit a formal application will receive funding. Proposals that were not recommended for funding will be retained by EDA for no longer than three years from the date of receipt.

ADDRESSES: Research and Evaluation proposals may be e-mailed to *klim1@eda.doc.gov;* National Technical Assistance proposals may be e-mailed to *jmcnamee@eda.doc.gov.* Alternatively, Research and Evaluation proposals may be hand-delivered to: W. Kent Lim, U.S. Department of Commerce, Economic Development Administration, Room 1874, 1401 Constitution Avenue, NW., Washington, DC 20230.

National Technical Assistance proposals may be hand-delivered to: Dr. John J. McNamee, U.S. Department of Commerce, Economic Development Administration, Room 1874, 1401 Constitution Avenue, NW., Washington, DC 20230; or

Research and Evaluation proposals may be mailed to: W. Kent Lim, U.S. Department of Commerce, Economic Development Administration, Room 7015, 1401 Constitution Avenue, NW., Washington, DC 20230;

National Technical Assistance proposals may be mailed to: Dr. John J. McNamee, U.S. Department of Commerce, Economic Development Administration, Room 7816, 1401 Constitution Avenue, NW., Washington, DC 20230.

Proponents are encouraged to submit proposals by e-mail. Proponents are advised that, due to mail security measures, EDA's receipt of mail sent via the United States Postal Service may be delayed for up to two weeks.

EDA will not accept proposals submitted by facsimile.

FOR FURTHER INFORMATION CONTACT: For a copy of the full Federal Funding Opportunity (FFO) announcement for this solicitation for competitive

proposals, contact the appropriate EDA officer listed above. The text of the full FFO announcement can also be accessed at EDA's Web site: *http://www.eda.gov* and at *http://www.grants.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access: The full FFO announcement for this competitive solicitation with respect to the FY 2004 NTA Program is available through EDA's Web site, *http://www.eda.gov,* and through Grants.gov at *http://www.grants.gov.*

Funding Availability: EDA may use funds appropriated under Public Law 108–199 for the NTA Program. Funds in the amount of $805,000 are available for the NTA Program and funds in the amount of $495,000 have been appropriated for the Research and Evaluation Program for FY 2004. The funds made available for both Programs are available until expended. Awards under this competitive solicitation will be in the form of grants or cooperative agreements, with cooperative agreements being used where there is substantial collaboration between the EDA NTA Program staff and the recipient of an award. For example, a cooperative agreement will be used if there is substantial collaboration between EDA Program staff and the recipient of an information dissemination award in the selection of topics and presenters for satellite telecasts and regional policy forums.

Statutory Authority: Public Works and Economic Development Act of 1965, as amended (Pub. L. 89–136, 42 U.S.C. 3121 *et seq.*), and as further amended by the Economic Development Administration Reform Act of 1998 (Pub. L. 105–393) (PWEDA).

CFDA: 11.303 Economic Development—Technical Assistance; 11.312 Economic Development—Research and Evaluation.

Eligibility: Eligible applicants and eligible recipients of EDA financial assistance as defined in 13 CFR 300.2, including private individuals and for-profit organizations.

Cost Sharing Requirements: Ordinarily the amount of the EDA grant may not exceed 50 percent of the cost of the project. *See* 13 CFR 301.4(a), 307.11(c)(1). While cash contributions are preferred, the project's non-Federal share may consist of in-kind contributions, fairly evaluated by EDA, such as contributions of space, equipment and services. 13 CFR 301.4(a). In-kind contributions must be eligible project costs and meet applicable Federal cost principles and uniform administrative requirements. *Id.* EDA may supplement the costs of a project up to and including 100 percent of such project costs where the applicant is able to demonstrate that the project (i) is not feasible without EDA supplementation, and (ii) otherwise warrants EDA supplementation. 13 CFR 307.11(c)(1), (2). EDA may also supplement the costs of a project where the applicant is able to demonstrate that the applicant's overall economic situation precludes its contribution of the non-Federal share otherwise required for the project. 13 CFR 307.11(c)(1)(i), 301.4(b). Potential applicants should contact the appropriate EDA office to make this determination.

Intergovernmental Review: Applications under the NTA Program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Evaluation and Selection Procedures: To apply for an award under this request, an eligible applicant must submit a proposal to EDA during the specified timeframe and in the manner provided by this solicitation. Proposals that do not meet all items required or that exceed the page limitations set forth in the FFO will be considered non-responsive and will not be considered by the review panel. Proposals that meet all the requirements will be evaluated by a review panel comprised of at least three members, all of whom will be full-time Federal employees. The panel first evaluates the proposals using (a) the general evaluation criteria set forth in 13 CFR 304.1 and 13 CFR 304.2, and (b) the supplemental evaluation criteria (Investment Policy Guidelines) set forth below. The Assistant Secretary of Commerce for Economic Development is the Selecting Official and will normally follow the recommendation of the review panel. However, the Assistant Secretary may not make any selection, or he may substitute one of the lower rated proposals, if he determines that it better meets the overall objectives of PWEDA.

A. Evaluation Criteria

Proposals that meet these threshold criteria will subsequently be evaluated by the review panel using the following criteria of approximate equal weight:

1. The quality of a proponent's response to deliverables set forth in Section II. above;

2. The ability of the proponent to successfully carry out the proposed activities; and

3. Cost to the Federal Government.

B. Supplemental Evaluation Criteria—Investment Policy Guidelines

EDA's mission is to lead the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. Accordingly, all potential EDA investments will be analyzed using the following five Investment Policy Guidelines, which constitute supplemental evaluation criteria of approximate equal weight and which further define the criteria provided at 13 CFR 304.2:

1. *Be market-based and results driven.* An investment will capitalize on a region's competitive strengths and will positively move a regional economic indicator measured on EDA's Balanced Scorecard, such as: an increased number of higher-skill, higher-wage jobs; increased tax revenue; or increased private sector investment.

2. *Have strong organizational leadership.* An investment will have strong leadership, relevant project management experience, and a significant commitment of human resources talent to ensure a project's successful execution.

3. *Advance productivity, innovation, and entrepreneurship.* An investment will embrace the principles of entrepreneurship, enhance regional clusters, and leverage and link technology innovators and local universities to the private sector to create the conditions for greater productivity, innovation, and job creation.

4. *Look beyond the immediate economic horizon, anticipate economic changes, and diversify the local and regional economy.* An investment will be part of an overarching, long term comprehensive economic development strategy that enhances a region's success in achieving a rising standard of living by supporting existing industry clusters, developing emerging new clusters, or attracting new regional economic drivers.

5. *Demonstrate a high degree of commitment by exhibiting:* (a) High levels of local government or non-profit matching funds and private sector leverage; (b) clear and unified leadership and support by local elected officials; and (c) strong cooperation between the business sector, relevant regional partners and local, state and federal governments.

Announcement and Award Dates: By September 9, 2004, EDA will notify proponents whether they will be given further funding consideration and will invite successful proponents to submit a

Form ED–900A, Research and National Technical Assistance, OMB Control Number 0610–0094. There is no guarantee that successful proponents will receive funding. The projects selected for funding should expect to receive funding by September 30, 2004. Proposals that were not recommended for funding will be retained by EDA for no longer than three years from the date of receipt.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Form ED–900A has been approved by OMB under the control number 0610–0094. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined not to be significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: July 20, 2004.

David Bearden,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 04–16907 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 28–2004]

Foreign-Trade Zone 227, Durant, OK, Proposed Foreign-Trade Subzone, TPI Petroleum, Inc. (Oil Refinery Complex), Ardmore, OK

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Rural Enterprises of Oklahoma, Inc., grantee of FTZ 227, requesting special-purpose subzone status for the oil refinery complex of TPI Petroleum, Inc. (TPI), a subsidiary of Valero Energy Corporation, located at three sites in the Ardmore, Oklahoma, area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 13, 2004.

The TPI refinery complex is located at 3 sites in the Ardmore, Oklahoma, area, some 100 miles south of Oklahoma City: *Site 1* (85,000 BPD capacity, 2,730,000 barrel storage capacity, 737.45 acres)—main refinery complex, located at Highway 142 Bypass and E. Cameron Road (Carter County); *Site 2* (20.03 acres, 2 tanks, 184,000 barrel total crude storage capacity)—Wesson Storage Terminal, located at 13798 Prairie Valley Road, (Carter County), some 13 miles west of the refinery; and, *Site 3* (22.25 acres, 2 tanks, 160,000 barrel total finished product storage capacity)—Wynnewood Storage Terminal, State Highway 17A and Froman Lane (Murray County), some 35 miles north of the refinery. The refinery complex is adjacent to the Dallas/Fort Worth Customs port of entry.

TPI's Ardmore refinery (260 employees) is used to produce fuels and other petroleum products. Products include gasoline, jet fuel, distillates, residual fuels, naphthas, motor fuel blendstocks, LPGs, petroleum coke and sulfur. Some 80 percent of the crude oil (75 percent of inputs) is sourced abroad. The company is also requesting to import certain intermediate inputs (naphthas and gas oils) under FTZ procedures.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates that apply to certain petrochemical products and refinery by-products (duty-free) by admitting incoming foreign inputs (crude oil, natural gas condensate, gas oil, naphtha) in non-privileged foreign status. The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is September 24, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period until October 12, 2004.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the U.S. Department of Commerce Export Assistance Center, 301 NW., 63rd Street, Suite 330, Oklahoma City, Oklahoma 73116.

Dated: July 15, 2004.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04–16976 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 040719211–4211–01]

Determination by the Department of Commerce on the Petition Submitted by the Copper & Brass Fabricators Council, Inc. and the Non-Ferrous Founders' Society, Requesting the Monitoring and Control of U.S. Copper Scrap and Copper-Alloy Scrap Exports in Accordance With the Short Supply Provisions of the Export Administration Act of 1979, as Amended

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Notice of determination.

SUMMARY: On April 7, 2004, the Bureau of Industry and Security received a written petition requesting the imposition of export monitoring and export controls on copper scrap and copper-alloy scrap. The Department of Commerce reviewed this petition in accordance with Sections 3(2)(C) and 7(c) of the Export Administration Act (''EAA'') (50 U.S.C. app. Sections 2402(2)(c) and 2406(c)), as implemented by Section 754.7 of the Export Administration Regulations (''EAR'') (15 CFR 754.7), and has determined that neither monitoring nor controls is necessary in order to carry out the policy set forth in Section 3(2)(C) of the EAA.

FOR FURTHER INFORMATION CONTACT: Daniel O. Hill, Director of the Office of Strategic Industries and Economic Security, Bureau of Industry and Security, who may be reached at (202) 482–4506.

SUPPLEMENTARY INFORMATION:

The Petition

On April 7, 2004, the Department of Commerce (''Department'') received a petition from the Copper & Brass Fabricators Council, Inc., and the Non-Ferrous Founders' Society (the ''petitioners'') requesting that the Department impose monitoring and controls on exports of recyclable metallic materials containing copper (''copper-based scrap''), in accordance with the short supply provisions of Section 7(c) of the Export Administration Act of 1979, as amended, and Section 754.7 of the Export Administration Regulations.

Although the EAA expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended by the Notice of August 7, 2003 (3 CFR, 2003 Comp., p. 328 (2004)) continues in effect, to the extent permitted by law, the provisions of the EAA and its implementing regulations under the International Emergency Economic Powers Act.

The petitioners identified four commodities by the Census Bureau's Schedule B numbers as those for which monitoring and export controls were requested: 7404.00.0020 (waste and scrap of refined copper), 7404.00.0045 (waste and scrap of copper-zinc base alloys (brass) containing more than 0.3 percent lead), 7404.00.0062 (waste and scrap of brass containing 0.3 percent or less lead), and 7404.00.0080 (other copper alloy waste and scrap, NESOI).

As a remedy, the petitioners requested that export monitoring be imposed on a weekly basis for copper-based scrap, with the publication of weekly reports on anticipated exports, and that export controls be imposed that limit the monthly total of copper-based scrap exports to 31,678 metric tons (''MT''), the monthly average of total exports for the five-year period of 1996–2000, to be allocated among destinations in an historically based manner for an initial period of one year.

In a **Federal Register** notice published on April 22, 2004 (60 FR 21815), the Department acknowledged receipt of and requested public comments on the petition and, at the request of the petitioners, on May 19, 2004 held a public hearing concerning the petition. The Department heard testimony from 12 witnesses at the public hearing, and received several written comments in response to the request for public comment. Interested parties may review the Bureau of Industry and Security's (''Bureau'') Web site, *http://www.bis.doc.gov*, for the complete text of the petition, pertinent **Federal Register** notices, written public comments, and the transcript of the public hearing.

During the review of the petition, the Bureau consulted with other U.S. Government departments and agencies, including the Departments of State and the Treasury, the Council of Economic Advisors, the Office of the United States Trade Representative, the Department of the Interior's U.S. Geological Survey, and the Department of Commerce's Economics and Statistics Administration, and International Trade Administration.

The Statutory Determinations for Short Supply Actions

The Department of Commerce reviewed this petition in accordance with Sections 3(2)(C) and 7(c) of the EAA (50 U.S.C. app. Sections 2402(2)(c) and 2406(c)), as implemented by Section 754.7 of the EAR (15 CFR 754.7).

Section 3(2) of the EAA, states:

It is the policy of the United States to use export controls only after full consideration of the impact on the economy of the United States and only to the extent necessary

* * *

(C) To restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

In Section 7(c)(3)(A), the EAA sets forth five determinations that the Secretary of Commerce shall make in determining whether short supply action is warranted.[1] The Secretary is to determine whether:

(i) There has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and demand;

(ii) There has been a significant increase in domestic price of such material or a domestic shortage of such material relative to demand;

(iii) Exports of such material are as important as any other cause of a domestic price increase or shortage relative to demand found under clause (ii);

(iv) A domestic price increase or shortage relative to demand found under clause (ii) has significantly adversely affected or may significantly adversely affect the national economy or any sector thereof, including a domestic industry; and

(v) Monitoring or controls, or both, are necessary in order to carry out the policy set forth in section 3(2)(C) of the EAA.

The Department of Commerce's Review of the Statutory Determinations

Determination 1: Whether there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and demand.

For the reasons set forth below, the Department has determined that there has been a significant increase, in relation to the specific period of time (1999–2003), in exports of copper-based scrap in relation to domestic supply and demand of such commodity. The increase in exports should be considered in the context of substantially decreased U.S. domestic

[1] Pursuant to Section 4.01(b) of Department Organizational Order 10–16 (March 19, 2004), the Secretary of Commerce has delegated to the Under Secretary of Commerce for Industry and Security the authority to make these determinations.

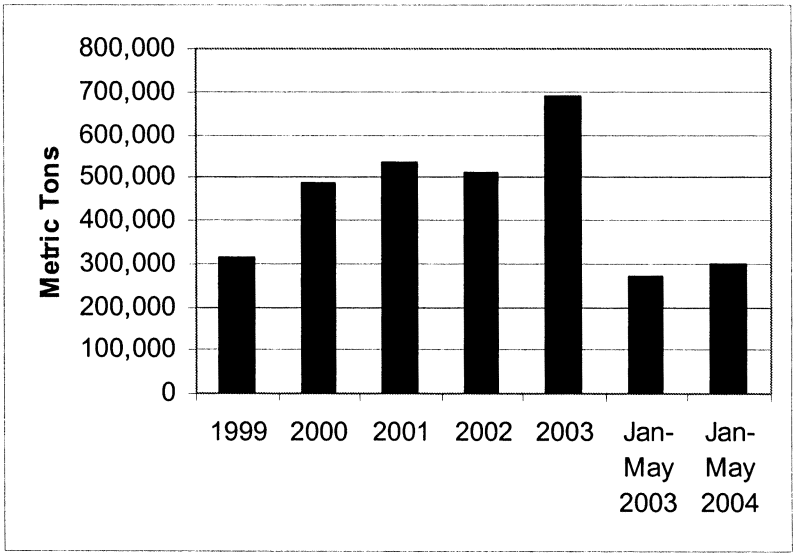
consumption, as well as the record showing that some copper-based scrap cannot be directly consumed by the petitioners.

The petitioners allege that exports of copper-based scrap have increased by 138 percent during the 1999–2003 period, and that the volume of copper-based scrap exports has increased in both an absolute sense and as a percentage of the U.S. copper-based scrap supply in relation to U.S. demand.[2] *See* Petition for the Imposition of Monitoring and Controls with Respect to Exports from the United States of Copper Scrap and Copper-Alloy Scrap (''Petition''), pp. 10–13. The petitioners also allege that ''[e]ssentially all the growth in U.S. exports of copper-based scrap in recent years [1999–2003] has been attributable to rising demand in China.'' See Petition, p. 13.

Copper-Based Scrap Exports

The Department has found that U.S. exports of copper-based scrap increased by 119 percent from 1999–2003, rising from 315,000 MT in 1999 to 689,000 MT in 2003.[3] *See* Chart 1. During the first five months of 2004 (the most recent data available), exports have increased 11 percent compared to the same period in 2003, rising from 269,000 MT in January–May 2003 to 298,000 MT in January–May 2004.

CHART 1
U.S. DOMESTIC EXPORTS OF COPPER-BASED SCRAP
1999-2004 (YEAR-TO-DATE)



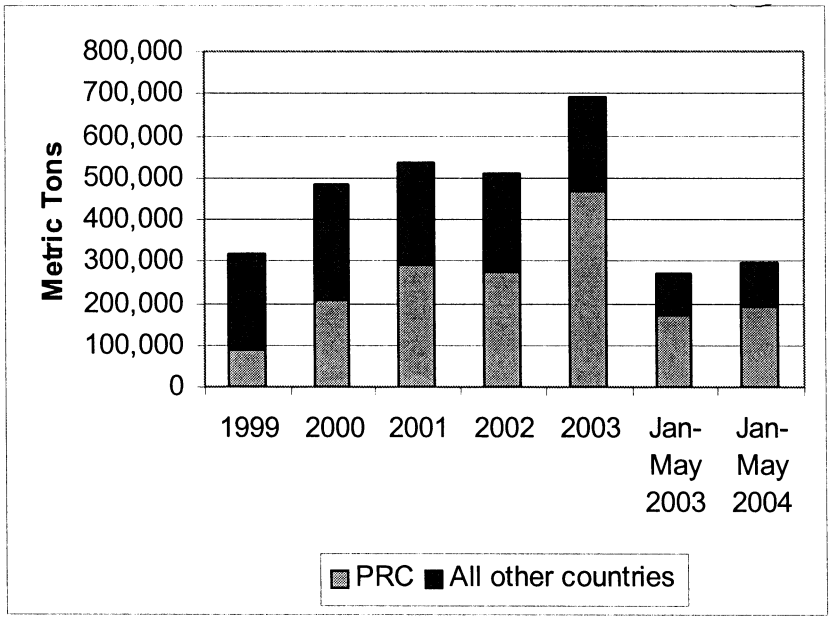
Source: U.S. International Trade Commission DataWeb

The People's Republic of China (''PRC'') has been the leading destination of U.S. copper-based scrap exports since 1999, accounting for 68 percent of U.S. copper-based scrap exports in 2003. U.S. copper-based scrap exports to the PRC increased by 447 percent from 1999–2003, rising from 86,000 MT in 1999 to 470,000 MT in 2003. *See* Chart 2. During the first five months of 2004, exports to the PRC have increased 14 percent compared to the same period in 2003, rising from 169,000 MT in January–May 2003 to 192,000 MT in January–May 2004. While exports to the PRC have increased during the 1999–2003 period, exports to all other countries have remained relatively stable.

[2] The petitioners are part of the U.S. copper and copper-based scrap consuming (melting) industry, which includes approximately 35 primary brass mills, 15 wire rod mills, 23 ingot makers, 600 foundries, and three fire-refiners. Brass mills melt and alloy feedstock to make metal strip, sheet, plate, tube, rod, bar, mechanical wire, forgings, and extrusions. The brass mills employ fabricating processes, such as hot-rolling, cold-rolling, extrusion, and drawing to convert the melted and cast feedstock into mill products. Ingot-makers produce a wide range of cast copper alloys in the form of ingots. These ingots are small enough (30 pounds) to fit into their customers' (foundries and brass mills) furnaces. Foundries make shaped castings for industrial and consumer goods, the most important of which are plumbing products and industrial valves.

[3] All export data presented in this determination are based on the Bureau of the Census' reporting of ''U.S. Domestic Exports'' of copper-based scrap. The record does not demonstrate that re-exports of foreign-origin copper-based scrap, as recorded in ''U.S. Total Exports,'' and cited by the petitioners, could be used in the domestic market.

CHART 2
U.S. DOMESTIC EXPORTS OF COPPER-BASED SCRAP TO THE PRC AND WORLD 1999-2004 (YEAR-TO-DATE)



Source: U.S. International Trade Commission DataWeb

Domestic Consumption

Trends in U.S. consumption of copper-based scrap must be evaluated because the statute requires a determination of whether exports have increased significantly ''in relation to domestic supply and demand.''

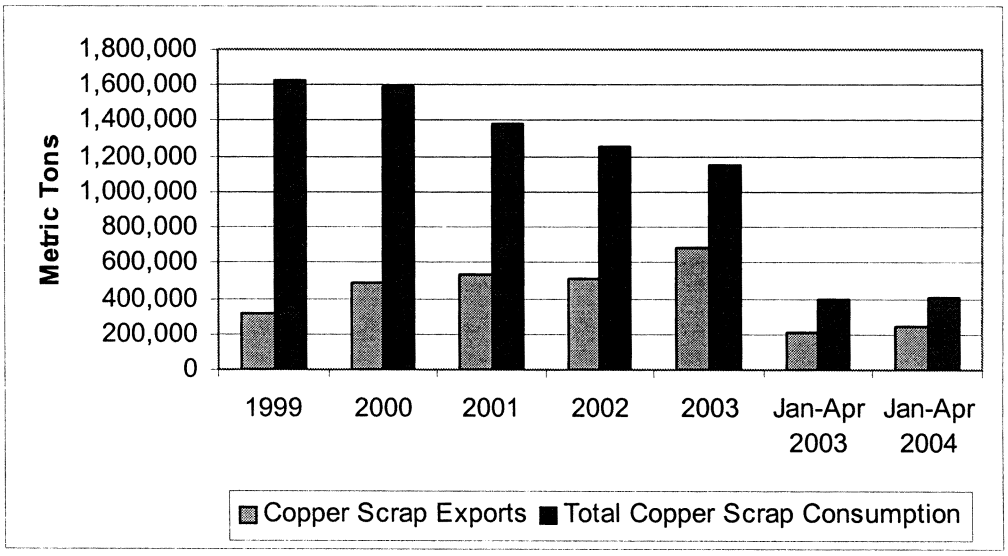
The Department has found that U.S. consumption of copper-based scrap decreased by 30 percent from 1999–2003, falling from 1,631,000 MT in 1999 to 1,152,000 MT in 2003.[4] During the first four months of 2004, U.S. consumption of copper-based scrap increased 3 percent compared to the same period in 2003, rising from 397,000 MT in January–April 2003 to 410,000 MT in January–April 2004 (the most recent data available).

Over the past five years, U.S. consumption of copper-based scrap has decreased more than the rise in U.S. exports during the same period. *See* Chart 3. From 1999–2003, U.S. exports of copper-based scrap increased by 374,000 MT, while U.S. consumption decreased by 479,000 MT.

[4] Copper-based scrap can be distributed into three categories based on its origins and processing. (1) ''Home scrap'' or ''run around scrap'' is material generated during manufacturing (clippings, off-spec material) that never leaves the plant of origin and is recycled (remelted) internally. (2) ''New scrap'' is manufacturing scrap (grindings, turnings, webbing, skimmings, off-spec material) generated downstream from the primary mill that is not recycled internally, but rather enters into commerce and is traded back to the source primary mill or marketed through scrap yards and brokers. New scrap is particularly valuable to the primary mills in that its origins and exact composition are known, it is compatible with their alloy product output, and it requires little or no processing before consumption. (3) ''Old scrap'' is material recovered from items that have been placed in service and have become obsolete or otherwise removed from service. Old scrap, such as used water tubing, valves, auto radiators, and harnesses is collected through a tier of scrap processors and may be processed or upgraded before marketing to consumers or brokers for domestic use or export.

In 2003, new scrap accounted for approximately 96 percent of U.S. brass mills' scrap consumption according to U.S. Geological Survey data. *See* Table 9, U.S. Geological Survey, Copper in December 2003 (March 2004). The U.S. Geological Survey estimates that old scrap accounted for approximately 75 percent of U.S. ingot makers' scrap consumption and 51 percent of U.S. foundries' scrap consumption in 2003. *Id.*

CHART 3
U.S. DOMESTIC EXPORTS AND CONSUMPTION OF COPPER-BASED SCRAP
1999-2004 (YEAR-TO-DATE)

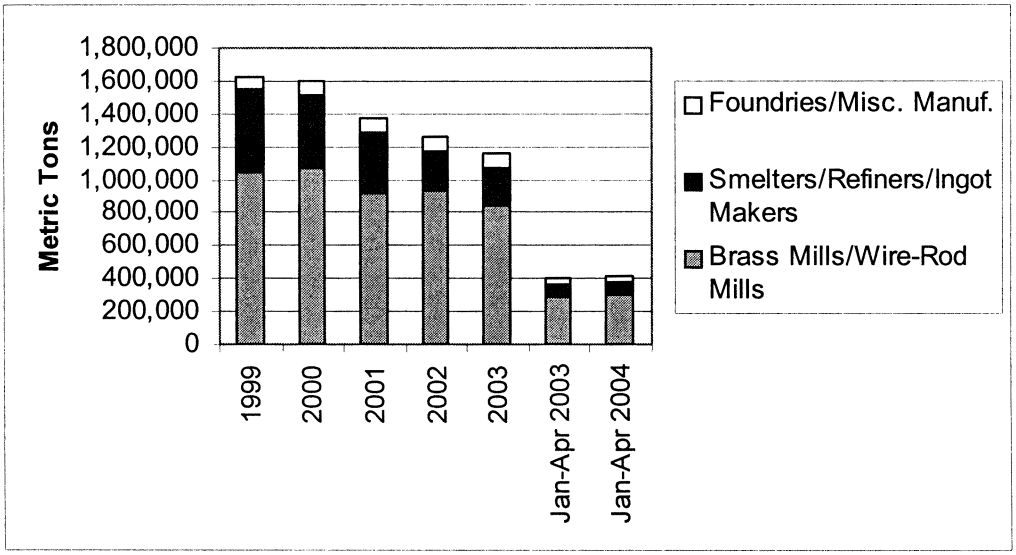


Sources: U.S. International Trade Commission DataWeb; Table 10, U.S. Geological Survey, Minerals Yearbook: Copper, 1999-2002; and Table 10, U.S. Geological Survey, Mineral Industry Surveys (Copper), December 2003-March 2004. April 2004 consumption data provided by U.S. Geological Survey.

The domestic copper-based scrap processing industry underwent significant restructuring during the 1999–2003 period, including the closure of the last operating independent U.S. secondary smelter in 2001.[5] Historically, a significant portion of the scrap processed by the secondary smelters was material containing certain impurities that prevented copper and brass mills from directly consuming the scrap. During the 1999–2003 period, consumption of copper-based scrap by U.S. smelters, refiners, and ingot makers (including secondary smelters) decreased by 55 percent, falling from 501,000 MT in 1999 to 224,000 MT in 2003. *See* Chart 4.

[5] The petitioners allege that increased exports of copper-based scrap were a major cause that contributed to the demise of the U.S. secondary smelting industry. *See* petitioners' supplemental comments (May 27, 2004), p. 9. The record does not demonstrate that the increase in exports was a major cause of the closure of the U.S. secondary smelters. The last two operating secondary smelters closed in may 2000 (Southwire co., Carrollton, Georgia) and October 2001 (Chemetco Inc., Hartford, Illinois). The closure of both smelters was linked to the costs associated with environmental regulations compliance and the low price of copper. See U.S. geological survey, minerals yearbook—2000, p. 23.3; U.S. geological survey, minerals yearbook—2001, p. 22.2; and copper development association, technical report: the U.S. copper-base scrap industry and its by-products—2002 (July 2002), p. 14.

CHART 4
U.S. CONSUMPTION OF COPPER-BASED SCRAP
1999-2004 (YEAR-TO-DATE)



Sources: Table 10, U.S. Geological Survey, Minerals Yearbook: Copper, 1999-2002; and Table 10, U.S. Geological Survey, Mineral Industry Surveys (Copper), December 2003-March 2004. April 2004 consumption data provided by U.S. Geological Survey. 2003 and January-April 2004 Foundries/Misc. Manuf. consumption estimated as equal to 2002 figure. The U.S. Geological Survey includes wire-rod mill consumption with brass mills to avoid disclosing company proprietary data.

The Institute of Scrap Recycling Industries, Inc. (''ISRI'') has stated that ''the vast majority of the material being exported is copper scrap that would otherwise not be consumed domestically'' due to the closure of the domestic secondary smelters. *See* ISRI Final Comments (June 7, 2004), p. 17. The petitioners acknowledge that not all the copper-based scrap being exported can be consumed by the domestic industry, noting that ''some element of the product exported is not of sufficient quality for use by the brass mill industry'' and that ''there is no means of discerning how much of the exported product could actually be used by the U.S. brass mill industry.'' *See* Petition, pp. 11–12, footnote 14. Thus, the Department concludes that the information on the record shows that at least some of the copper-based scrap being exported cannot be consumed by the domestic industry.

Thus, the increase in exports should be considered in the context of substantially decreased U.S. domestic consumption, as well as the record evidence showing that some copper-based scrap cannot be directly consumed by the petitioners.

Determination 2: Whether there has been a significant increase in domestic price of such material or a domestic shortage of such material relative to demand.

For the reasons set forth below, the Department has determined that there has been a significant increase in the domestic price of copper-based scrap. The Department has not determined that there is a domestic shortage of copper-based scrap relative to the demand for such material.

The petitioners allege that ''U.S. prices for copper-based scrap have increased significantly * * *'' *See* Petitioners' Initial Comments (May 13, 2004), p. 2. The petitioners cite increases in copper-based scrap prices since 2001, in particular the dramatic increases that occurred during the first four months of 2004 when the prices of Brass Mill Scrap, No. 1 copper (''No. 1 copper scrap'') and Refiners'' Copper Scrap, No. 2 copper, (''No. 2 copper scrap'') rose 66.7 percent and 73.8 percent, respectively, compared to the same period in 2003.[6] *Id.*

The petitioners also allege that increased exports of copper-based scrap have reduced U.S. supplies and have caused shortages of the material. The petitioners state that shortages of copper-based scrap have not been reflected in widespread production interruptions to date, but in the increased substitution of copper cathode (99.9 percent pure copper) for copper-based scrap and reduced stocks of copper-based scrap. See Petition, pp.

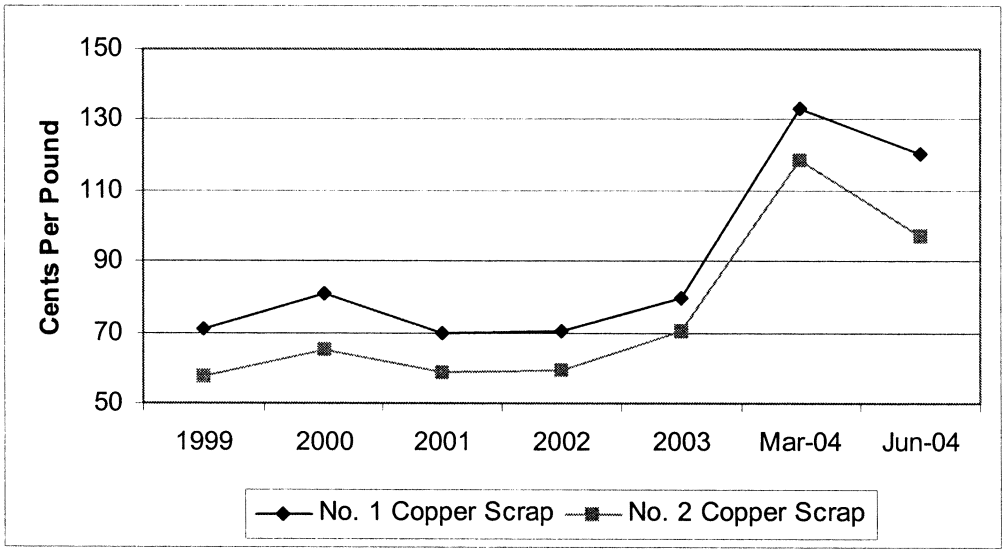
[6] Copper-based scrap is defined in as many as 43 different categories based on its copper purity-level. For many of these categories, there is no universal agreement among the copper scrap consuming and producing industries on definitions. No. 1 copper scrap is one of the scrap designations on which most members of the copper consuming and producing industries can agree. It is comprised of at least 99 percent copper. No. 2 copper scrap is considered by most industrial consumers/producers to be scrap with 94–98 percent copper content. However, some in the scrap consuming industry view No. 2 copper scrap as any scrap not classified as No. 1 copper scrap. Sequential definitions beyond No. 2 scrap indicate material with ever-decreasing percentages of copper and increasing percentages of other metals, such as lead, tin, and zinc.

15–16, and Petitioners' Initial Comments (May 13, 2004), p. 3.

Domestic Prices

The Department has found that the average annual prices for No. 1 copper scrap and No. 2 copper scrap increased by 13 and 22 percent, respectively, from 1999–2003.[7] The price for No. 1 copper scrap rose from 70.88 cents per pound in 1999 to 79.86 cents per pound in 2003. The price for No. 2 copper scrap rose from 57.53 cents per pound in 1999 to 70.15 cents per pound in 2003. *See* Chart 5. During the first six months of 2004 (the latest monthly data published), the prices for No. 1 copper scrap and No. 2 copper scrap have increased 65 percent and 64 percent, respectively, compared to the same period in 2003.[8]

CHART 5
U.S. COPPER SCRAP AVERAGE PRICES
1999-2004 (YEAR-TO-DATE)



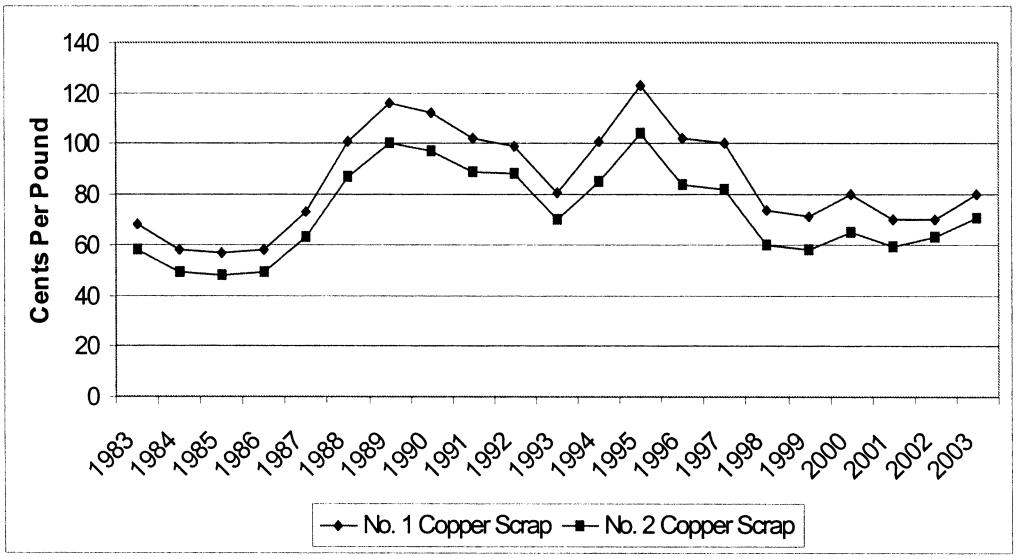
Sources: U.S. Geological Survey compilation of American Metal Market published price data. Table 13, U.S. Geological Survey, Minerals Yearbook: Copper, 2000-2002; and Table 13, U.S. Geological Survey, Mineral Industry Surveys (Copper), December 2003-March 2004. April 2004-June 2004 data provided by U.S. Geological Survey.

The prices for No. 1 copper scrap and No. 2 copper scrap each rose 32 percent during the first quarter of 2004 compared to the fourth quarter of 2003, before falling during the second quarter of 2004. Comparing prices in March 2004 to June 2004, the average monthly prices for No. 1 and No. 2 copper scrap decreased 10 percent and 18 percent, respectively. The price for No. 1 copper scrap fell from 132.89 cents per pound in March 2004 to 120.33 cents per pound in June 2004. The price for No. 2 copper scrap fell from 118.57 cents per pound in March 2004 to 96.90 cents per pound in June 2004. In addition, the Department has found that the price increase for copper scrap that occurred from 1999–2003 occurred at a slower rate than previous price increases (*e.g.*, 1986–1989 and 1993–1995). *See* Chart 6.

[7] The petitioners and ISRI have each utilized American Metal Market published pricing data for copper scrap in their submissions for the record. Because the petitioners and ISRI used this source, the Department determined it was appropriate to utilize American Metal Market pricing data during the course of the review. Copper scrap prices presented in this determination are based on the American Metal Market's published daily estimates of dealer buying prices for carload lots delivered to a buyer's works.

[8] The comparison of year-on-year periods is appropriate because scrap prices and supplies are influenced by seasonal demand for copper products. *See* Wolverine Tube, Inc., Quarterly 10-Q Report to the Securities and Exchange Commission (August 13, 2003); ''Essex cites wire market for earnings cut,'' Copper News, American Metal Market (May 22, 1998); ''Higher Cost of Steel Scrap Boosting Price of Finished Steel,'' Buffalo News (February 15, 2004).

CHART 6
U.S. COPPER SCRAP AVERAGE PRICES
1983-2003



Source: Bureau of Industry and Security compilation of American Metal Market published price data

Domestic Shortage

During the process of the review, the Department found no convincing evidence of the existence of a shortage of copper-based scrap. After reviewing the statute, the Department has determined that, as used in Section 7(c) of the EAA, a shortage of copper-based scrap exists if the domestic industry's demand exceeds the supply at prevailing market prices. In addition to the fact that the information submitted by the petitioners did not establish that a shortage of copper-based scrap exists, as discussed below there are no signs of any consequences of a shortage. There is conflicting evidence as to whether the industry has had difficulties purchasing copper-based scrap. Petitioners stated that they have had trouble getting their required supply of copper-based scrap. *See* Hearing Transcript, pp. 9, 12, 39–41, 52–53, 55, 74–76, 92–95, 107, 112, 124–127, 131–132, 137, 154, 156–157, and 159–161. The petitioners stated that one unnamed brass mill reported that ''delays in sourcing input material resulted in a cumulative equivalent of 11 days of lost production'' during the first quarter of 2004, and at the hearing three witnesses for the petitioners stated that supply availability had affected their companies' production schedules. *See* Petitioners' Supplemental Comments (May 13, 2004), p. 15 and Hearing Transcript, pp. 107, 112, and 161.

In response, ISRI stated that many scrap processors reported that brass mills were delaying receipt of purchased scrap due to excess inventories of raw materials at the mills. *See* ISRI Initial Comments (May 13, 2004), p. 7; Hearing Transcript, pp. 177, 191; and ISRI Final Comments (June 7, 2004), pp. 23–24. ISRI provided information stating that brass mills have slowed down their acceptances of shipments of copper-based scrap. ISRI identified ten brass mills or ingot makers by name that it states have extended delivery dates by as long as six-to-eight weeks. *See* ISRI Final Comments (June 7, 2004), pp. 23–24.

The petitioners disagreed with ISRI's statements that mills were delaying deliveries. The petitioners surveyed their members (133 companies according to membership lists attached as Exhibit 1 to the petition) to ascertain if any company had requested that deliveries be delayed, and advised the Department that, of the eight producers responding to their inquiry, none reported delaying ''purchasing copper-based scrap offered by scrap dealers because such scrap was not needed.'' *See* Petitioners' Final Comments (June 7, 2004), p. 10. After the closing of the public comment period, the petitioners also provided additional statements from officials with five of the ten companies identified by ISRI, stating that these companies had not delayed shipment of scrap for ''''six to eight weeks'' because of an ''excess inventory'' of scrap on hand.'' See Petitioners'' Statements from Brass Mills (July 13, 2004).[9] While the Department has accepted this submission, we note that due to the late filing other parties have not had an opportunity to respond. The Department concludes that there is unrebutted record evidence that at least five companies have delayed scrap deliveries.

In addition, there were no signs of significant consequences that would normally result from a shortage. The record does not reflect that the industry is laying off workers or shutting down plants due to an inability to obtain scrap. The record also does not reflect that the industry has been unable to satisfy customer orders to date. *See* Hearing Transcript, pp. 23–24, 112–113, 126–127, and 161.

[9] One of the company officials noted that his company may have delayed some scrap deliveries in April 2004 due to the shutdown of a furnace for regular maintenance. *See* Statement of Edward Kerins, Jr., Cambridge-Lee Industries (July 12, 2004), p. 2.

ISRI also suggests that there are extensive potential reserves of obsolete copper-based scrap in the United States. *See* Nathan Associates Inc., The National Inventory of Obsolete Copper Scrap: Accumulation and Availability, 1982–2003 (May 2004) (''Nathan Associates Study''). However, the Department has not relied on this study because the study does not demonstrate that these ''potential reserves'' are readily available for use by copper scrap consuming industries. The study's definition of obsolete copper scrap ''consists of copper contained in installed or in-place products in the U.S. economy.'' *See* Nathan Associates Study, p. i.

As discussed above, the petitioners state that shortages of copper-based scrap have been reflected in the increased substitution of copper cathode for copper-based scrap. The Department has found that there is no quantitative evidence suggesting that U.S. brass mills have been extensively switching to cathode in response to an alleged copper-based scrap shortage. According to U.S. Geological Survey data, there has been only a marginal increase in brass mill consumption of cathode as a percentage of total feedstock since 1999, with cathode accounting for 28.3 percent of total brass mill feedstock consumption in 1999 and 30.8 percent in 2003. During the first four months of 2004 (the most recent data available), cathode has accounted for 27 percent of brass mill feedstock consumption. *See* Table 1.

TABLE 1
U.S. BRASS MILL CONSUMPTION OF COPPER-BASED SCRAP, REFINED COPPER, AND CATHODES
1999-2004 (YEAR-TO-DATE)

	(A)	(B)	(C)	(D)	(E)	(F)
	Brass Mill Consumption of Copper-Based Scrap (MT)	Brass Mill Consumption of Refined Copper (MT)	Brass Mill Consumption of Cathodes (MT)	Total Brass Mill Consumption (MT) (A+B)	Scrap as a Percentage of Total Brass Mill Consumption (A/D)	Cathode as a Percentage of Total Brass Mill Consumption (C/D)
1999	1,045,000	691,000	492,000	1,736,000	60.2 percent	28.3 percent
2000	1,070,000	723,000	501,000	1,793,000	59.7 percent	27.9 percent
2001	919,000	623,000	429,000	1,542,000	59.6 percent	27.8 percent
2002	930,000	593,000	439,000	1,523,000	61.1 percent	28.8 percent
2003	840,000	587,000	439,000	1,427,000	58.9 percent	30.8 percent
2004 (Jan-Apr)	307,000	204,000	138,100	511,000	60.1 percent	27.0 percent

Sources: Tables 4 and 5, U.S. Geological Survey, Minerals Yearbook: Copper, 2000-2002. Revised 1999, 2003, and January-April 2004 data provided by U.S. Geological Survey. Refined copper includes cathodes, wire bars, ingots and ingot bars, cakes and slabs, and billets and others. The U.S. Geological Survey includes wire-rod mill copper-based scrap consumption with brass mills to avoid disclosing company proprietary data.

As discussed above, the petitioners also state that shortages of copper-based scrap have been reflected in the decrease of copper-based scrap stock levels. The Department has found that the domestic copper-based scrap stock level at brass mills; smelters, refiners, and ingot makers; and foundries has declined 36 percent from 1999–2003. However, the level of copper-based scrap stocks has remained relatively constant as a percent of consumption of copper-based scrap during this period. According to U.S. Geological Survey data, copper-based scrap stocks were equal to 5.5 percent of domestic consumption in 1999, 5.1 percent in 2000, 4.9 percent in 2001, 5.3 percent in 2002, and 5.0 percent in 2003.[10]

Determination 3: Whether exports of such material are as important as any other cause of a domestic price increase or shortage relative to demand found under clause (ii).

For the reasons set forth below, the Department has determined that exports of copper-based scrap are not as important as any other cause of the domestic price increase relative to demand found under Determination 2, above.

[10] *See* Table 10, U.S. Geological Survey, Minerals Yearbook: Copper, 2000–2002. Preliminary 2003 data provided by U.S. Geological Survey.

The petitioners allege that ''there are no factors other than exports that serve to explain domestic shortages and increased prices for copper-based scrap in the United States.'' *See* Petitioners' Initial Comments (May 13, 2004), p. 14. The petitioners state that foreign buyers are ''paying above market-levels and agreeing to preferential sales terms to U.S. scrap dealers in order to obtain'' copper-based scrap. *See* Petition, pp. 19–20. The petitioners provided testimony and articles from the trade press to substantiate these claims. The petitioners also state that increased copper-based scrap exports have led to higher domestic copper-based scrap prices by reducing available domestic supplies. *Id.,* p. 20. The petitioners provided testimony and written comments to substantiate their assertions.

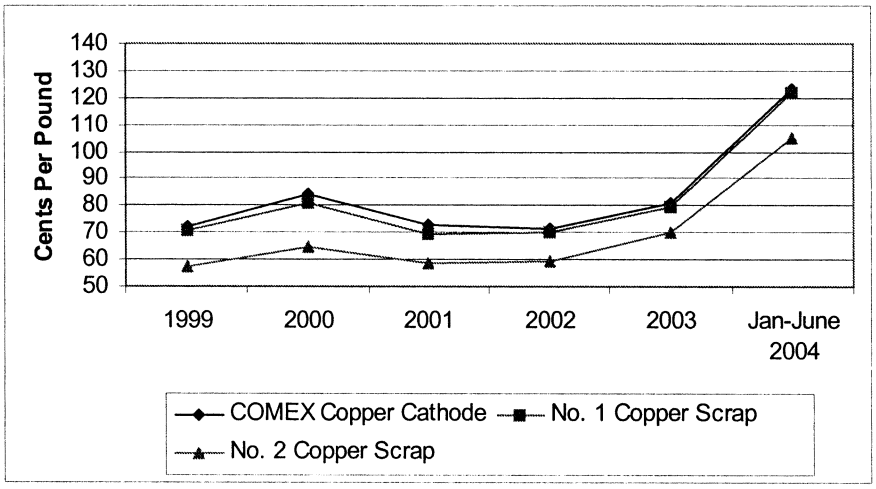
During the public hearing, the Department requested a copy of the petitioners' analysis that there were no factors, other than exports, that have caused the alleged shortage. *See* Hearing Transcript, pp. 83–84. The petitioners have not provided the requested data.

ISRI counters the petitioners' assertions by stating that ''[a]ny impact that the increase in exports might have had on scrap prices is marginal at best and impossible to quantify.'' *See* ISRI Final Comments (June 7, 2004), p. 4. ISRI also states that ''[t]he domestic price for copper scrap typically mirrors the world market price for such scrap, which is dictated by the global market price for copper metal.'' *See* ISRI Initial Comments (May 13, 2004), p. 2.

Based on evidence gathered during the course of the review, the Department concluded that the overall price of copper scrap tracks the price of copper cathode, as traded on global commodity exchanges. *See* Chart 7.[11] While the rise in exports in copper-based scrap has been a factor influencing the increase in domestic copper scrap prices, it is the world supply and demand for copper that has been the most important cause of any increase in the price of copper-based scrap.

[11] *See also* Exhibit 6 to Petitioners' Initial Comments (May 27, 2004); testimony of Michael Kerwin, on behalf of petitioners (''the price of scrap essentially keys off of * * * the COMEX price''), Hearing Transcript, p. 61; testimony of Roy Allen, on behalf of petitioners (''these rising prices certainly reflect general increases in world copper prices that have taken place, as reflected by the commodity exchanges''), Hearing Transcript, p. 92; testimony of Jeffrey Burghardt, on behalf of petitioners (''copper-based scrap in the U.S. is priced at a negotiated discount or premium relative to the COMEX price for copper cathode''), Hearing Transcript, p. 122.

CHART 7
U.S. AVERAGE COPPER CATHODE AND COPPER SCRAP PRICES
1999-2004 (YEAR-TO-DATE)



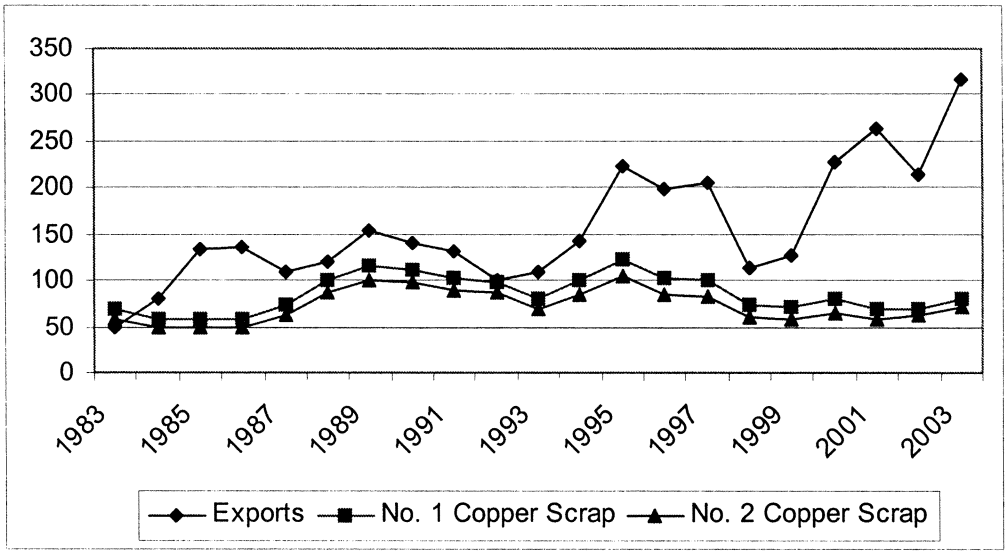
Sources: U.S. Geological Survey compilation of New York Mercantile Exchange Commodities Division ("COMEX") and American Metal Market published price data. Table 13, U.S. Geological Survey, Minerals Yearbook: Copper, 2001-2002; and Table 13, U.S. Geological Survey, Mineral Industry Surveys (Copper), December 2003-March 2004. April 2004-June 2004 data provided by U.S. Geological Survey.

The global market for copper cathode, in turn, is driven by factors such as copper mining developments (*e.g.*, mine shutdowns or new investments), developments in the refining sector (*e.g.*, changes secondary copper smelting and refining capacity), and copper demand. *See* ISRI Initial Comments (May 13, 2004), pp. 10–11. The supply from copper mines, in particular, has been a critical factor in recent price fluctuations. During the past several years, prices for copper have been low and production was reduced as a result. *See* ''Codelco sets copper production target of 1.6M tonnes, up 3.5%,'' American Metal Market (March 20, 2003). More recently, the mining companies have suffered from labor problems and natural disasters that have impeded supply. *See* ''A Strike here, a landslide there * * * behind the pinch in copper,'' American Metal Market (February 9, 2004). Thus, global copper supplies were unable to respond quickly to increased global copper demand resulting from rapid growth in Asia and increased demand in the United States. *See* International Copper Study Group (''ICSG''), Press Release: Forecast 2004–2005 (May 19, 2004).[12] Accordingly, world market prices have seen a sharp increase that correlates to the increase in domestic prices. The ICSG also reports that Chile and the PRC are or will be releasing copper from stockpiles in 2004. In 2005, copper mines in Indonesia are anticipated to be operating at full capacity, and certain mines will be reopening in North America. *Id.*

In addition, historically the rate of copper scrap price increases does not correspond closely to the rate at which copper scrap exports increased. While the rate of the recent 1999–2003 rise in copper scrap prices is less than that experienced in earlier periods (*e.g.*, 1986–1989 and 1993–1995), the rate of increase in export quantities from 1999–2003 appears to have occurred at the same or greater level as the rate recorded in earlier periods. *See* Chart 8. This relationship undermines the claim that domestic copper scrap prices are highly related to the increase in export volumes and suggests that the recycling industry is searching for new markets for the scrap that can no longer be processed in the United States. Indeed, the overall level of global copper scrap consumption decreased approximately 15 percent from 1999–2003 according to unpublished ICSG data. Given the integration of global scrap trade, this decrease makes it unlikely that scrap consumption trends are responsible for the run-up in scrap prices.

[12] The International Copper Study Group, established in 1992, is an intergovernmental organization that serves to increase copper market transparency and promote internaitonal discussions and cooperation on issues related to copper.

CHART 8
U.S. UNALLOYED COPPER SCRAP EXPORTS
AND U.S. COPPER SCRAP AVERAGE PRICES
1983-2003
UNALLOYED EXPORTS (000MT)
NO. 1 AND NO. 2 COPPER SCRAP PRICES (CENTS PER POUND)



Source: Bureau of Industry and Security compilation of Bureau of the Census export data and American Metal Market published price data

Finally, there have been a number of foreign governmental actions that may have affected the price and supply of copper scrap, including Russia's export restriction on copper-based scrap. In 1998, Russia was the leading exporter of copper-based scrap, with exports totaling 357,000 MT. *See* Copper Development Association Inc., Table 3, Technical Report: The U.S. Copper-based Scrap Industry and Its By-products—2003 (December 2003). However, in 1999, the Russian government imposed an export tax on copper scrap that effectively removed the country from the copper scrap export market. This export tax may have had an impact on global copper scrap prices and supply. As the export tax was phased in, Russian exports of copper scrap dwindled. *See* ''Copper, nickel gains bring out supply,'' American Metal Market (February 11, 1999), and ''Unpredictable Behavior: The Story of Copper and Brass,'' Recycling Today (April 2000). The Russian export tax was imposed at the beginning of the 1999–2002 time period when global demand for copper scrap increased at a rate of approximately 20 percent. *See* Copper Development Association Inc., Table 4, Technical Report: The U.S. Copper-based Scrap Industry and Its By-products—2003 (December 2003). Russia's withdrawal from the copper scrap export market in 1999 may have influenced the global availability of copper-based scrap.

The petitioners also have cited several Chinese government practices that they allege are spurring scrap exports to China. First, the petitioners state that it is their understanding that the PRC applies a value-added tax (''VAT'') of 17 percent on imports of copper-based scrap and then rebates 30 percent of this VAT to the importer. *See* Petitioners' Final Comments (June 7, 2004), p. 20. Second, the petitioners claim that ''additional subsidies'' beyond the VAT rebate are provided to downstream Chinese products that incorporate copper-based scrap. *Id.* Third, they claim that copper-based scrap is either undervalued and/or assessed at a lower duty rate due to mis-classification when it is imported into China. *Id.,* p. 21.

The Department, working with the Office of the United States Trade Representative and the Department of State, is continuing to gather information regarding these alleged practices, to examine whether they constitute unfair trade practices, such as subsidies or discriminatory treatment, that may be addressed under U.S. law or international rules. We note that the PRC will require that all companies seeking to ship scrap to China be licensed by China's General Administration of Quality Supervision, Inspection and Quarantine (''AQSIQ''). AQSIQ has announced that it will bar non-licensed vendors from unloading scrap in China on November 1, 2004. The application deadline for exporters is August 1, 2004. According to AQSIQ, the license requirement is intended to reduce the amount of dangerous contaminated scrap being imported into China.

Determination 4: Whether a domestic price increase or shortage relative to demand found under clause (ii) has significantly adversely affected or may significantly adversely affect the

national economy or any sector thereof, including a domestic industry.

For the reasons set forth below, the Department has determined that the domestic price increase relative to demand found under Determination 2, above, has not significantly adversely affected and likely will not significantly adversely affect the national economy or any sector thereof, including a domestic industry.

The petitioners allege that the copper scrap price increase has caused higher material acquisition costs for primary brass mills and secondary fabricators of sheet, tube, plate, and rod. They state that these higher costs, in turn, reduce profit margins. *See* Petition, pp. 28–29.

National Economy

The primary industries that use copper-based scrap include four industries with the following North American Industry Classification System (''NAICS'') codes: (1) Copper rolling, drawing, and extruding (NAICS 331421); (2) copper wire (except mechanical) drawing (NAICS 331422); (3) secondary smelting, refining, and alloying of copper (NAICS 331423); and (4) copper foundries (NAICS 331525). According to data published in the Census Bureau's Annual Survey of Manufactures (2003), the sum of the value added by these four industry sectors was $3 billion in 2001 (the most recent data available). These primary industries appear to have accounted for less than 1 percent of the $10.1 trillion Gross Domestic Product of the United States. These economic data do not demonstrate that a significant increase in price or a shortage of copper-based scrap relative to demand has significantly or will significantly affect the national economy.[13]

Sectoral Analysis

To demonstrate the adverse effect on their industry, the petitioners focus on trends in the price differentials (or ''discounts'') that exist between copper scrap and copper cathode. This issue is of particular importance to the petitioners because the ''pricing of copper and copper-alloy finished products by brass mills generally takes account of prevailing market prices for copper cathode.'' *See* Petition, p. 28. This pricing mechanism, in part, limits the brass mills' ability to ''pass through'' the increased costs of manufacturing associated with the rise in copper scrap prices. Brass mill products are often made with copper-based scrap, not just cathode, and if the price for copper scrap increases and the price for copper cathode does not exhibit a commensurate increase, profit margins are narrowed via a cost-price squeeze. *Id.,* pp. 28–29.

The petitioners argue that the industry faced such a scenario from 2001–2003. The petitioners state that the discount for No. 1 copper scrap, relative to copper cathode prices, decreased from 2.95 cents per pound in 2001 to 1.21 cents per pound in 2003, a difference of 1.74 cents per[14] pound. *See* Petition, p. 28. The petitioners note that this decrease in discounts was due to ''increased exports and reduced scrap supply.'' *Id.* Furthermore, the petitioners state that this narrowing discount ''resulted in a direct cost to the brass mill industry of $32,306,135 annually,'' based on 2003 consumption levels. *Id.*

In its evaluation of this issue, the Department reviewed the change in price differentials between 1999–2003 and the first two quarters of 2004. The Department chose these periods for review due to the fact that the petitioners have argued that the overall increase in copper-based scrap exports began in 1999. *See* Petition, p. 10. For the 1999–2003 period, the Department determined that the price differential for No. 1 copper scrap decreased by only 3 percent, falling from 1.23 cents per pound in 1999 to 1.19 cents per pound in 2003. This period shows a significantly smaller decline in discounts than the 2001–2003 period highlighted by the petitioners (from 2001–2003 the discount for No. 1 copper scrap declined by 59 percent).

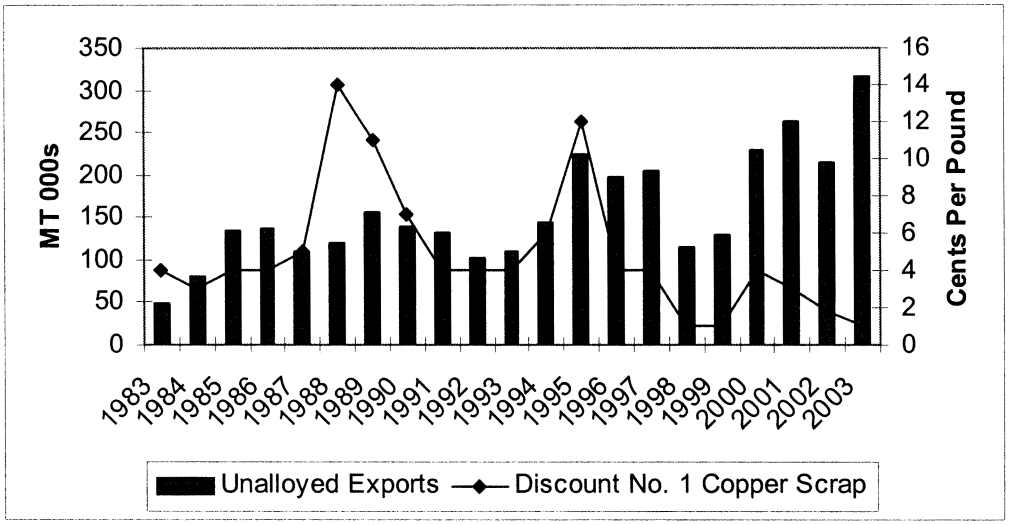
Further, during the first six months of 2004, the price differential for No. 1 copper scrap decreased by only 3 percent compared to the same period in 2003, falling from 1.21 cents per pound in January–June 2003 to 1.18 cents per pound in January–June 2004. *See* Table 2.

Moreover, there is insufficient evidence that the current discount levels for No. 1 copper scrap are caused by increased exports. Petitioners submitted data regarding historical discount levels. *See* Petitioners' Final Comments (June 7, 2003), pp. 4–7 and Exhibit 1. A decline in discount levels for No. 1 copper scrap occurred from the mid-1990s to the late-1990s. However, U.S. exports of unalloyed copper scrap did not increase significantly during this period. *See* Chart 9. The Department compared No. 1 copper scrap discounts with unalloyed copper scrap exports from 1983–2003 and determined that the discount for No. 1 copper scrap does not track U.S. exports of unalloyed copper scrap. Accordingly, the decline in discount levels does not appear to have been caused by any increase in exports, but by other factors.

[13] Supporters of the petition note that copper-based scrap shortages could affect U.S. industry's ability to support U.S. national security, citing copper's use by the ammunition industry as an example. *See* Petitioners' Final Comments (June 7, 2004), p. 16 and Letter from Senator Arlen Spector to Donald L. Evans, Secretary of Commerce (June 14, 2004), p. 2. The record does not demonstrate that the U.S. defense industry has been unable to satisfy national defense requirements to date due to a shortage of copper-based scrap. The department administers the Defense Priorities and Allocations Systems (''DPAS'') regulations to ensure the timely availability of industrial products and materials to meet current national defense and emergency preparedness requirements. *See* 15 CFR Part 700. The DPAS is maintained under the authority of Titles I and VII of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et. seq.*); Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195, *et. seq.*); Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468);10 U.S.C. 2538; 50 U.S.C. 82; Executive Order 12919, as amended (3 CFR, 1994 Comp. 901); Executive Order 12742, as amended (3 CFR, 1991 Comp. 309); and Executive Order 12656, as amended (3 CFR, 1988 Comp. 585).

[14] According to U.S. Geological Survey data, No. 1 copper scrap accounted for approximately 45 percent of U.S. brass mills' scrap consumption in 2003. *See* Table 10, U.S. Geological Survey, Copper in December 2003 (March 2004).

CHART 9
U.S. UNALLOYED COPPER SCRAP EXPORTS
AND U.S. AVERAGE DISCOUNTS FOR NO. 1 COPPER SCRAP
1983-2003



Source: Bureau of Industry and Security compilation of Bureau of the Census export data and calculation of the discount for No. 1 copper scrap based on COMEX and American Metal Market published price data

The Department also reviewed the petitioners' claim that the decrease in discounts has ''resulted in a direct cost to the brass mill industry of $32,306,135 annually.'' *See* Petition, p. 28. In order to reach this number, the petitioners calculated the difference between the 2001 and 2003 discounts for No. 1 copper scrap (1.74 cents per pound) and multiplied that by the 2003 consumption level of copper-based scrap (1,856,674,437 pounds). *Id.* When this approach is applied to the differences between 1999 and 2003 discounts (0.04 cents per pound), this number declines to $742,669 annually.[15]

The Department also evaluated the discount for No. 2 copper scrap, as No. 2 copper scrap is an input for refiners and ingot makers. From 1999–2003, the discount for No. 2 copper scrap decreased by 25 percent, falling from 14.58 cents per pound in 1999 to 10.9 cents per pound in 2003. However, during the first six months of 2004, the price differential has increased by 62 percent compared to the same period in 2003, rising from 11.32 cents per pound from January–June 2003 to 18.36 cents per pound from January–June 2004. *See* Table 2. The current discount for No. 2 copper scrap is near the peak of average annual discount levels from 1999–2003. *Id.*

[15] Brass mills also negotiate arrangements with their customers to purchase new scrap generated during the customers' manufacturing operations through buy-back arrangements. There is no information in the record concerning the pricing structure for the brass mills' repurchase of new scrap from their customers. *See* Hearing Transcript, pp. 86–87, 146–150. Testimony of George Dykhuizen, on behalf of petitioners (''[t]here's a published price for the price of the mill return scrap which is not related to the COMEX. * * * Every mill has just a different, different arrangement, a different price for that buying arrangement, buy-sell arrangement, if you will.''), Hearing Transcript, pp. 147–148. There are no published data on the volume of buy-back arrangements.

TABLE 2
AVERAGE COMEX COPPER CATHODE AND U.S. COPPER SCRAP PRICES AND DISCOUNTS
CENTS PER POUND

	COMEX Copper Cathode	No. 1 Copper Scrap	No. 2 Copper Scrap	No. 1 Discount	No. 2 Discount
1999	72.11	70.88	57.53	1.23	14.58
2000	83.97	80.67	64.99	3.30	18.98
2001	72.57	69.57	58.90	3.00	13.67
2002	71.67	70.23	59.45	1.44	12.22
2003	81.05	79.86	70.15	1.19	10.90
Average Jan-June 2003	75.37	74.16	64.05	1.21	11.32
Average Jan-June 2004	123.29	122.11	104.93	1.18	18.36

Sources: U.S. Geological Survey compilation of American Metal Market published price data. Table 13, U.S. Geological Survey, Minerals Yearbook: Copper, 2000-2002; and Table 13 U.S. Geological Survey, Mineral Industry Surveys (Copper), December 2003-March 2004. April 2004-June 2004 data provided by U.S. Geological Survey.

The Department also concluded that price discounts for copper scrap have been determined not only by domestic supply, which can be influenced by exports, but also by domestic demand and transportation costs.[16] Accordingly, the changes in the margins for No. 1 and No. 2 copper scrap exhibited between 1999–2003 and during the first two quarters of 2004 were caused not only by changes in domestic supply of scrap, but also by fluctuations in U.S. demand and transportation costs.

In addition to addressing the impact of declining discounts, the petitioners provided aggregate financial information on six major brass mills (17 percent of the 35 brass mills operating in the United States) to help quantify the impact of increased exports and reduced supplies of copper-based scrap on the industry. This information partially responded to the Department's request for detailed information regarding such adverse effects. *See* Hearing Transcript, pp. 72, 133. The information supported the petitioners' allegations that declining sales values and rapidly increasing material input costs have reduced the operating profits for the six companies from 11 percent in 1999 to 2 percent in 2003. *See* Petitioners' Final Comments (June 7, 2004), Exhibit 5.

Accordingly, as to a specific sector of the national economy, there appears to be some evidence of reduced profits at the primary producer level. However, this evidence is from a limited sample that may not be representative of the entire industry. It is possible that other members of the industry have become more profitable over this time period. In addition, the petitioners did not estimate the six brass mills' share of the industry's total net sales. The Department has calculated that the 1999 revenues of the six brass mills accounted for 12.7 percent of the total shipments (revenues) for the four primary industries that used copper-based scrap, based on the Census Bureau's Annual Survey of Manufactures.[17] Although the Census Bureau has published data through 2001, the petitioners only provided a summary of financial data for 1999, 2002, and 2003. Accordingly, the Department was unable to perform further calculations. Moreover, petitioners have not provided information that the companies have been forced to shut down, or reduce employment, or have been unable to satisfy customer orders. Indeed, their responses indicate that these effects have not occurred. Thus, the evidence does not demonstrate the requisite adverse effects to satisfy the requirements of this determination.

Equally important, the evidence does not demonstrate that the reduced profitability experienced by some members of the brass mill industry was caused by a domestic price increase or shortage, as the statute requires. The

[16] The American Metal Market scrap prices include the cost of transportation of the scrap from the recycling facility to the processing facility's yard, ''[e]stimated dealer buying prices, in ¢/lb, delivered to yard.'' *See* American Metal Market Nonferrous Scrap Prices.

[17] Copper rolling, drawing, and extruding (NAICS 331421); copper wire (except mechanical) drawing (NAICS 331422); secondary smelting, refining, and alloying of copper (NAICS 331423); and copper foundries (NAICS 331525).

reduced profitability may be due, in part, to other factors, such as a significant decline in sales values. In 1999, the year when the six brass mills' operating profits were 11 percent of net sales, their net sales value was $1,263.4 million. *See* Petitioners' Final Comments (June 7, 2004), p. 17. In 2003, when their operating profits dropped to 2 percent of net sales, their net sales value was only $1,012.7 million—a drop of over $250 million, or approximately 20 percent. A 20 percent drop in sales may reduce operating profits, as it becomes more difficult for a company to cover its fixed costs. In addition, higher energy and transportation costs appear to have burdened the industry. Accordingly, the Department has insufficient data to determine the extent to which the reduced profitability is due to a domestic price increase or shortage, versus other factors.

Petitioners further allege adverse effect to a sector of the national economy to the extent that they have been able to pass along higher material acquisition costs to their customers. They claim that such increases are resulting in higher prices for copper-based products. They allege that these higher prices for copper-based products are causing economic harm that calls into question the economic viability of their customers' continuing production in light of competition from lower cost imports and possible substitution of lower cost alternatives for copper products. *See* Petition, p. 29.

According to the Bureau of Labor Statistics, there have been increases in the prices for copper products (*i.e.*, rod, bar, sheet, strip, and plate), but the data are insufficient to determine the percentage of such increases attributable to the rise in copper-based scrap prices as distinguished from other factors. *See* Bureau of Labor Statistics, Producer Price Indices, Copper & Alloy Rod, Bars & Shapes (NAICS 3314213); Copper & Alloy Sheet, Strip & Plate (NAICS 3314217); and Copper & Alloy Pipe and Tube (NAICS 3314219). These findings and the information available on the record do not demonstrate that material acquisition costs for copper-based scrap have translated into U.S. companies and consumers purchasing lower cost imported brass/copper fittings and related products or substituting lower cost alternatives for copper products.

Accordingly, while at least some petitioners have experienced reduced profit margins over the past several years, they have not established that the higher prices of copper-based scrap have had a significant adverse impact on their activities or those of their customers.

The statute also requires that the Department consider whether increased prices or shortages may, in the future, significantly adversely affect the domestic industry. As noted, exports of copper-based scrap are not as important as any other determinant in these current price increases and supply levels, and there are no indications at this time, based on the record, that significant adverse effects may result from current trends. Moreover, given the inherently predictive nature of this analysis, it is appropriate to proceed with caution.[18]

In sum, the record does not indicate that the price increases have significantly adversely affected or may significantly adversely affect the national economy or any sector thereof.

Determination 5: Whether monitoring or controls, or both, are necessary in order to carry out the policy set forth in section 3(2)(C) of this Act.

For the reasons set forth below, the Department has determined that neither monitoring nor controls is necessary in order to carry out the policy set forth in Section 3(2)(C) of the EAA.

Section 3(2) of the EAA states that:

[i]t is the policy of the United States to use export controls only after full consideration of the impact on the economy of the United States and only to the extent necessary—

* * *

(C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

As addressed in Determination 2, there is insufficient evidence to establish a shortage of copper-based scrap, and, as addressed in Determination 4, there is insufficient evidence to establish that exports of copper-based scrap are having a significant adverse effect on the domestic economy or a sector thereof. Accordingly, the Department has determined that it is not necessary to restrict exports of copper-based scrap in order to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand. For the same reason, it is not necessary to monitor such exports.

Furthermore, based on a review of the record, there is insufficient evidence to determine whether export controls would increase the supply of copper-based scrap or lower its domestic price.[19] The Department therefore finds that it is appropriate to act with caution in imposing controls, absent a more precise understanding of the likely impact of these actions. We requested this information from interested parties, but did not receive any relevant analysis. *See* Bureau of Industry and Security, Copper and Brass Scrap Short Supply Petition: Additional Questions for Interested Parties, Supply and Demand Considerations, questions 15–19.[20]

Regarding monitoring, the Department is concerned that imposing monitoring would result in significant record-keeping and reporting burdens on U.S. industry. The imposition of monitoring would require that exporters of copper-based scrap report to the Department all actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand for such scrap. The Department would then be required to aggregate the information submitted and publish the aggregated statistics on a weekly basis.

Determinations:

1. The volume of exports of copper-based scrap has increased significantly over the time period presented in the petition, 1999–2003 and year-to-date 2004. Decreased domestic consumption, including the closure of the last independent U.S. secondary smelter, has been an important factor in the rise of exports. Accordingly, the increase in exports is somewhat less significant when it is considered in relation to

[18] By way of analogy, U.S. trade law provides that the U.S. International Trade Commission shall not base a finding of ''threat'' of material injury on ''mere conjecture or supposition.'' 19 U.S.C. 1677(7)(F)(2) (2004). *See also* Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Annex 1A, Agreement Establishing the World Trade Organization, Apr. 15, 1994, reprinted in H.R. Doc. No. 316, 103d Cong., 2d Sess. 1453 (1994), Article 3.7 and Article 3.8 (threat cases ''shall be considered and decided with special care.'').

[19] Indeed, there is some evidence that restricting exports will increase the price of copper-based scrap due to global supply and demand. *See* ISRI Final Comments, p. 20.

[20] We note that ISRI has argued that imposing export controls would be a violation of Article XI of the General Agreement on Tariffs and Trade (GATT) 1994. *See, e.g.*, Supplemental Comments of Patton Boggs LLP (May 27, 2004), pp. 3–5. Petitioners argue the contrary. *See, e.g.*, Petitioners' Final Comments (June 7, 2004), pp. 21–24. Because the Department has determined that the standard for relief under U.S. law has not been met, we do not reach the issue of whether it would violate U.S. GATT 1994 obligations if export controls were imposed in this case. However, we consider it very important that the United States, and other countries that maintain or may consider imposing export controls for short supply reasons, act consistently with the relevant GATT 1994 obligations. GATT Article XI requires, in particular, that such controls (1) be ''temporarily applied,'' (2) respond to ''critical shortages,'' and (3) involve ''products essential to the exporting contracting party.''

domestic demand, as required by the statute.

2. Copper scrap prices have increased significantly during the time period presented in the petition, 1999–2003 and year-to-date 2004. However, the evidence does not demonstrate the existence of a shortage.

3. The world market for copper cathode, not the level of U.S. exports of copper-based scrap, is the most important determinant in the fluctuation of domestic copper scrap prices.

4. The evidence does not demonstrate a significant adverse effect on the national economy or any sector thereof resulting from the domestic copper scrap price increase.

5. Monitoring, export controls, or both, are unnecessary at this time in order to achieve the policy of EAA Section 3(2)(C).

Under Section 7(c)(3)(A) of the EAA, the Department has determined that, in light of the determinations set forth above, neither export controls nor monitoring is necessary in order to carry out the policy set forth in Section 3(2)(C) of the EAA.

However, given the increase in prices and exports in the recent years, the Department will work with its Bureau of the Census to refine the Schedule B classifications for copper-based scrap in order to better delineate the varieties of scrap that are being exported. We will then review the new data in the coming year. Among other things, this data will allow us to determine the extent to which the copper-based scrap being exported is of a variety that could otherwise be utilized by the U.S. copper-based scrap consuming industry. We note that the petitioners requested that this data be obtained. See Hearing Transcript, p. 41.

In addition, the Department will work closely with the Office of the United States Trade Representative and the Department of State to address any foreign government practices that are distorting the trade in copper-based scrap. For instance, we will encourage Russia and Ukraine to remove their restrictions on copper-based scrap exports. We will monitor China's implementation of its new licensing system for scrap metal imports, and will also evaluate and, as appropriate, respond to Chinese government practices that may be spurring exports of U.S. copper-based scrap to China.

Dated: July 21, 2004.

Kenneth I. Juster,

Under Secretary of Commerce for Industry and Security.

[FR Doc. 04–16947 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–823]

Stainless Steel Plate in Coils From Italy; Preliminary and Final Results of Full Sunset Review of Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for Preliminary and Final Results of Full Sunset Review: Stainless Steel Plate in Coils from Italy.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for its preliminary and final results in the full sunset review of the countervailing duty order on stainless steel plate in coils (''SSPC'') from Italy.[1] The Department intends to issue preliminary results of this sunset review on or about August 18, 2004. In addition, the Department intends to issue its final results of this review on or about December 29, 2004 (120 days after the date of publication in the **Federal Register** of the preliminary results).

EFFECTIVE DATE: July 26, 2004.

FOR FURTHER INFORMATION CONTACT: Hilary E. Sadler, Esq., Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4340.

Extension of Preliminary and Final Determinations

On April 1, 2004, the Department initiated a sunset review of the countervailing duty order on SSPC from Italy. *See Initiation of Five-Year (Sunset) Reviews*, 69 FR 17129 (April 1, 2004). The Department, in this proceeding, determined that it would conduct a full (240 day) sunset review of this order based on responses from the domestic and respondent interested parties to the notice of initiation. The Department's preliminary results of this review were scheduled for July 20, 2004. However, several issues have arisen regarding the revised net subsidy rate of the order with respect to Thyssen Krupp Acciai Speciali Terni (''TKAST'') and its effect on this sunset review. *See Notice of Implementation Under Section 129 of the Uruguay Round Agreements Act: Countervailing Measures Concerning Certain Steel Products From the European Communities*, 68 FR 64858 (November 17, 2003).

Because of the numerous, complex issues in this proceeding, the Department will extend the deadlines. Thus, the Department intends to issue the preliminary results on or about August 18, 2004 and the final results on or about December 29, 2004 in accordance with section 751(c)(5)(B).

Dated: July 19, 2004.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–16977 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or e-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in

[1] The Department normally will issue its preliminary results in a full sunset review not later than 110 days after the date of publication in the **Federal Register** of the notice of initiation. However, if the Secretary determines that a full sunset review is extraordinarily complicated under section 751(c)(5)(C) of the Act, the Secretary may extend the period for issuing final results by not more than 90 days. See section 751(c)(5)(B) of the Act.

compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 84–15A12.''

Northwest Fruit Exporters' (''NFE'') original Certificate was issued on June 11, 1984 (49 FR 24581, June 14, 1984), and previously amended on May 2, 1988 (53 FR 16306, May 6, 1988); September 21, 1988 (53 FR 37628, September 27, 1988); September 20, 1989 (54 FR 39454, September 26, 1989); November 19, 1992 (57 FR 55510, November 25, 1992); August 16, 1994 (59 FR 43093, August 22, 1994); November 4, 1996 (61 FR 57850, November 8, 1996); October 22, 1997 (62 FR 55783, October 28, 1997); November 2, 1998 (63 FR 60304, November 9, 1998); October 20, 1999 (64 FR 57438, October 25, 1999); October 16, 2000 (65 FR 63567, October 24, 2000); October 5, 2001 (66 FR 52111, October 12, 2001); October 3, 2002 (67 FR 62957, October 9, 2002); and September 16, 2003 (68 FR 54893, September 19, 2003). A summary of the application for an amendment follows.

Summary of the Application

Applicant: Northwest Fruit Exporters, 105 South 18th Street, Suite 227, Yakima, Washington 98901–2149.

Contact: James R. Archer, Manager, telephone: (509) 576–8004.

Application No.: 84–15A12.

Date Deemed Submitted: July 14, 2004.

Proposed Amendment: Northwest Fruit Exporters seeks to amend its Certificate to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): John's Farm LLC, Brewster, Washington; Pride Packing Company, Wapato, Washington; and Sage Processing LLC, Wapato, Washington;

2. Delete the following companies as ''Members'' of the Certificate: Apple Country, Inc., Wapato, Washington; Carlson Orchards, Inc., Yakima, Washington; Jenks Bros. Cold Storage & Packing, Royal City, Washington; Roy Farms, Moxee, Washington; and J.C. Watson Co., Parma, Idaho; and

3. Change the listing of the following Members: ''Brewster Heights Packing, Brewster, Washington'' to the new listing ''Brewster Heights Packing & Orchards, LP, Brewster, Washington''; and ''Chelan Fruit Company, Chelan, Washington'' to the new listing ''Chelan Fruit Cooperative, Chelan, Washington''.

Dated: July 19, 2004.

Jeffrey Anspacher,

Director, Office of Export Trading, Company Affairs.

[FR Doc. 04–16881 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Commercial Service Franchising Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice to announce franchising trade mission to Dublin, Ireland, October 4–5, 2004.

FOR FURTHER INFORMATION CONTACT: Office of Business Liaison; Room 5062; Department of Commerce; Washington, DC 20230; Tel: (202) 482–1360; Fax: (202) 482–4054.

SUPPLEMENTARY INFORMATION:

Franchising Trade Mission, Dublin, Ireland

October 4–5, 2004.

Mission Statement

I. Description of the Mission

The United States Department of Commerce, International Trade Administration, U.S. Commercial Service, Office of Export Promotion Services is organizing a Franchising Trade Mission to Dublin, Ireland, October 4–5, 2004. This event will target the service sectors that have potential for participating U.S. franchisors.

II. Commercial Setting for the Mission

The franchise sector in Ireland has experienced substantial growth in the past few years, with 160 systems now operating over 1,400 individual units in Ireland. The industry supports approximately 15,000 full-time equivalent jobs and during 2002 generated annual sales of over $1.3 billion. The number of franchise units is expected to reach 2,500 over the next three years. This surge in interest is being met by a healthy supply base of potential master licensees and franchisees.

The principal business sectors served by franchise operations in Ireland are food, home improvement, maintenance, business and professional services. The U.S. is now the dominant source of franchises, accounting for 39 percent of the market, overtaking the U.K. by 9 percent, while indigenous franchises account for a further 15 percent. U.S. franchises include household names such as Mail Boxes, Etc., McDonald's, TGI Fridays, and Remax. In line with high growth in the sector, established fast food companies including KFC, Burger King and Domino's Pizza have announced aggressive expansion plans to develop a combined total of 140 units over the next four years.

Indigenous franchises are also contributing to the strong growth of the sector, with the rapid expansion of franchises such as Supermacs, Abrakebabara, Nector Juice Bars and Ireland's most successful domestic and international franchise, O'Briens Irish Sandwich Bars. Future growth areas are predicted to include home help, building maintenance, cleaning, restaurant business, small home office and childcare facilities.

III. Goals for the Mission

The Trade Mission's goal is to gain first-hand market information and provide access to key government officials and potential business partners for new-to-market, and new-to-export U.S. franchises desiring to enter the Ireland's promising market.

IV. Scenario for the Mission

Mission participants will arrive in Dublin on or before October 3, 2004 where they will have two days (October 4–5, 2004) of business meetings with potential master franchisees interested in their concept. The post will also organize a business reception on the evening of October 4, 2004, to give the participants an opportunity to meet with potential partners. The mission will officially conclude on the evening of October 5, 2004.

This mission will be promoted through the following avenues: Export Assistance Centers and the franchising team; industry newsletters; **Federal Register**; relevant trade publications and associations; past trade mission participants; various in-house and purchased industry lists and on the Commerce Department trade mission calendar. Web site: *http://www.export.gov/comm_svc/tradeevents.html.*

V. Criteria for Participant Selection

—Relevance of company's products and services to mission goals;

—Potential for business in the market;

—Timely submission of company's completed application and payment of participation fee;

—Provision of adequate information on company's products/services and communication of the company's primary objectives to facilitate appropriate appointments with potential business partners;

—Certification that company's products or services are manufactured in the U.S. or if manufactured outside of the U.S. the product/service must be marketed under the name of a U.S. firm and have a U.S. content representing at least 51 percent of the value of the finished product/service;

—Any partisan political activities of an applicant, including political contributions, will be entirely irrelevant to the selection process.

Recruitment will begin immediately and will close on August 6, 2004 approximately 6 weeks prior to the start of the mission. The budget is based on 10 companies and the participation fee will be $1,700 per company.

Contact Information: Sam Dhir, Project Manager, Office of Trade Events Program, U.S. Commercial Service, U.S. Department of Commerce, Room 2118, Washington, DC 20230, Tel: 202–482–4756; Fax; 202–482–0178. E-mail: *sam.dhir@mail.doc.gov.*

Dated: July 26, 2004.

Nancy Hesser,

Industry Sector Manager, Export Promotion Services.

[FR Doc. 04–16908 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Consumer Goods Trade Policy Mission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice to announce consumer goods trade policy mission to Beijing, China, November 8–9, 2004.

FOR FURTHER INFORMATION CONTACT: Office of Business Liaison; Room 5062; Department of Commerce; Washington, DC 20230; Tel: (202) 482–1360; Fax: (202) 482–4054.

SUPPLEMENTARY INFORMATION:

Consumer Goods Trade Policy Trade Mission, Beijing, China

November 8–9, 2004.

Mission Statement

I. Description of the Mission

The International Trade Administration's Office of Consumer Goods, Office of China Economic Area, and U.S. Commercial Service is sponsoring a consumer goods trade policy mission to Beijing, China, November 8–9, 2004. This event will target sectors of the U.S. consumer goods industry involved in trade with China. Targeted trade policy mission participants will include representatives from U.S. firms specializing in consumer goods. The Department of Commerce's Assistant Secretary for Trade Development will lead the mission.

II. Commercial Setting for the Mission

Many firms would like to expand their exports to the large Chinese consumer market. China is the top source of U.S. imports of many key consumer goods products, yet some U.S. firms feel they are not afforded the same market access to the Chinese market.

The major issues, as expressed by U.S. consumer goods representatives, are as follows:

Intellectual Property Rights—Since joining the World Trade Organization (WTO), China has strengthened its laws and regulations to comply with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). Despite China's efforts to strengthen IPR protection, U.S. industry representatives continue to report instances of counterfeiting (particularly of brand names), copyright infringement, piracy, and inadequate/inconsistent enforcement of the regulations.

Distribution and Trading Rights—China's WTO commitments call for the phasing-out (over a three-year period) of certain restrictions on foreign companies to market, transport, and service/support their products in the domestic Chinese market. They also call for continued efforts to liberalize import and export regulations. U.S. consumer goods industry representatives are hopeful that recently announced changes regarding these regulations will lead to increased market access.

Standards—China's WTO commitments call for it to bring its technical regulations and standards into accordance with the WTO Agreement on Technical Barriers to Trade. U.S. consumer goods industry representatives continue to report concerns regarding the progress of these reforms, particularly with respect to standards issues.

Urban Motorcycle Restrictions—Most major Chinese cities have enacted restrictions on the use and ownership of motorcycles. Beijing was the first city to restrict the development of motorcycle usage in 1989, followed by more and more urban areas, with the trend accelerating especially after 1996. Today, well over 100 large and medium sized cities have enacted various restrictions on the usage or ownership of motorcycles.

III. Goals for the Mission

The objective of the mission is for representatives of the U.S. consumer goods industry to meet with Chinese officials to discuss the above issues (intellectual property rights, distribution and trading rights, standards, urban motorcycle restrictions) in an effort to expand their activities to provide products to the Chinese consumer market.

IV. Scenario for the Mission

The Consumer Goods Trade Policy Mission will take place over a two-day period of meetings in Beijing. The U.S. Commercial Service will provide market briefings and schedule appointments with appropriate government officials involved with the consumer goods industry. The purpose of the meetings would be for representatives of the U.S. consumer goods industry to meet with Chinese officials to discuss current issues relating to the aforementioned issues and U.S.-China bilateral trade of

consumer goods products, and to share ideas on ways to strengthen this relationship.

Timetable

November 7—Arrive in Beijing (individual travel plans to be determined by participants); activities open.

November 8—Briefing for mission delegates with Beijing consultative staff. Delegation participants expect to meet with officials from the National Development and Reform Commission (NDRC), the Ministry of Commerce (MOFCOM), the Ministry of Information (MII), and the State Administration for Quality Supervision and Inspection and Quarantine (AQSIQ).

November 9 ''Delegation will continue meetings with officials from the aforementioned government agencies.

November 10—Mission delegation will depart for the United States, or other destinations.

V. Criteria for Participation

- Relevance of the company's business line to mission goals. Participants must be U.S. citizens representing U.S. manufacturing or service firms in the consumer goods industry (exclusive of automobiles, consumer electronics, computers and accessories, and cosmetics).
- Participating firms must be incorporated or otherwise organized under the laws of the United States, and demonstrate that they are at least 51 percent U.S.-owned.
- Representatives of participating firms must have experience in dealing with China trade policy issues on behalf of their firms.
- Potential for expanding business in the Chinese market.
- Minimum of 8 and maximum of 20 participating in the mission.
- Provision of adequate information on the company's products and/or services and communication of the company's primary objectives to facilitate appropriate matching with government officials.

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department's trade missions calendar—*http://www.ita.doc.gov/doctm/tmcal.html*—and other Internet Web sites, press releases to the general and trade media, direct mail and broadcast fax, notices by industry trade associations and other multiplier groups, and at industry meetings, symposia, conferences, trade shows.

Recruitment for the mission will begin no later than July 2004 and conclude no later than September 10, 2004.

Participants in the Mission must agree to represent the interests of their firms only, and they may not represent the policies of the U.S. government.

Any partisan political activities (including political contributions) of an applicant are entirely irrelevant to the selection process.

Costs

$950 per participant. Budget breakdown available upon request.

Contacts Information: John Vanderwolf, Charlie Rast, U.S. Department of Commerce, International Trade Administration, Office of Consumer Goods, ITA/TD/TACGI/OCG, Room 3013, Fax: 202–482–1388, John Vanderwolf—Tel: 202–482–0348; E-mail: *john_vanderwolf@ita.doc.gov*, Charlie Rast—Tel: 202–482–4034; E-mail: *charlie_rast@ita.doc.gov*.

Dated: July 20, 2004.

Nancy Hesser,

Industry Sector Manager, Export Promotion Services.

[FR Doc. 04–16909 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 040602169–4169–01]

Announcing Proposed Withdrawal of Federal Information Processing Standard (FIPS) for the Data Encryption Standard (DES) and Request for Comments

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Data Encryption Standard (DES), currently specified in Federal Information Processing Standard (FIPS) 46–3, was evaluated pursuant to its scheduled review. At the conclusion of this review, NIST determined that the strength of the DES algorithm is no longer sufficient to adequately protect Federal government information. As a result, NIST proposes to withdraw FIPS 46–3, and the associated FIPS 74 and FIPS 81.

Future use of DES by Federal agencies is to be permitted only as a component function of the Triple Data Encryption Algorithm (TDEA). TDEA may be used for the protection of Federal information; however, NIST encourages agencies to implement the faster and stronger algorithm specified by FIPS 197, Advanced Encryption Standard (AES) instead. NIST proposes issuing TDEA implementation guidance as a NIST Recommendation via its ''Special Publication'' series (rather than as a FIPS) as Special Publication 800–67, Recommendation for Implementation of the Triple Data Encryption Algorithm (TDEA).

DATES: Comments on the proposed withdrawal of DES must be received on or before September 9, 2004.

ADDRESSES: Official comments on the proposed withdrawal of DES may either be sent electronically to *DEScomments@nist.gov* or by regular mail to: Chief, Computer Security Division, Information Technology Laboratory, ATTN: Comments on Proposed Withdrawal of DES, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930.

FOR FURTHER INFORMATION CONTACT: Mr. William Barker (301) 975–8443, *wbarker@nist.gov,* National Institute of Standards and Technology, 100 Bureau Drive, STOP 8930, Gaithersburg, MD 20899–8930.

SUPPLEMENTARY INFORMATION: In 1977, the Federal government determined that, while the DES algorithm was adequate to protect against any practical attack for the anticipated 15-year life of the standard, DES would be reviewed for adequacy every five years. DES is now vulnerable to key exhaustion using massive, parallel computations.

The current Data Encryption Standard (FIPS 46–3) still permits the use of DES to protect Federal government information. Since the strength of the original DES algorithm is no longer sufficient to adequately protect Federal government information, it is necessary to withdraw the standard.

In addition, NIST proposes the simultaneous withdrawal of FIPS 74, Guidelines for Implementing and Using the NBS Data Encryption Standard and FIPS 81, DES Modes of Operation. FIPS 74 is an implementation guideline specific to the DES. An updated NIST Special Publication 800–21, Guideline for Implementing Cryptography in the Federal Government, will provide generic implementation and use guidance for NIST-approved block cipher algorithms (*e.g.*, TDEA and AES). Because it is DES-specific, and DES is being withdrawn, the simultaneous withdrawal of FIPS 74 is proposed.

FIPS 81 defines four modes of operation for the DES that have been used in a wide variety of applications. The modes specify how data is to be encrypted (cryptographically protected)

and decrypted (returned to original form) using DES. The modes included in FIPS 81 are the Electronic Codebook (ECB) mode, the Cipher Block Chaining (CBC) mode, the Cipher Feedback (CFB) mode, and the Output Feedback (OFB) mode. NIST Special Publication 800–38A, Recommendation for Block Cipher Modes of Operation, specifies modes of operation for generic block ciphers. Together with an upcoming message authentication code recommendation, SP 800–38B, SP 800–38A is a functional replacement for FIPS 81. FIPS 81 is DES-specific and is proposed for withdrawal along with FIPS 46–3 and FIPS 74.

NIST invites public comments on the proposed withdrawal of FIPS 46–3, FIPS 74 and FIPS 81. After the comment period closes, NIST will analyze the comments and make appropriate recommendations for action to the Secretary of Commerce.

Future use of FIPS 46–3 by Federal agencies is proposed to be permitted only as a component function of the Triple Data Encryption Algorithm or ''TDEA.'' TDEA encrypts each block three times with the DES algorithm, using either two or three different 56-bit keys. This approach yields effective key lengths of 112 or 168 bits. TDEA is considered a very strong algorithm. The original 56-bit DES algorithm can be modified to be interoperable with TDEA.

Though TDEA may be used for several more years to encourage widespread interoperability, NIST instead encourages agencies to implement the stronger and more efficient algorithm specified by FIPS 197, Advanced Encryption Standard (AES) when building new systems. TDEA implementation guidance will be issued as a NIST Recommendation rather than as a FIPS. NIST plans to issue TDEA as Special Publication 800–67, Recommendation for Implementation of the Triple Data Encryption Algorithm (TDEA).

Authority: Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 5131 of the Information Technology Management Reform Act of 1996 and the Federal Information Security Management Act of 2002, Public Law 107–347.

E.O. 12866: This notice has been determined not to be significant for purposes of E.O. 12866.

Dated: July 18, 2004.

Hratch Semerjian,

Acting Director, NIST.

[FR Doc. 04–16894 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 040709204–4204–01]

Opportunity for Public To View Fire Test of Floor System as Part of the Federal Building and Fire Safety Investigation of the World Trade Center Disaster

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Opportunity for public to view fire test of World Trade Center floor system.

SUMMARY: The National Institute of Standards and Technology announces the opportunity for the public to view the fire test of a floor system as part of the federal building and fire safety investigation of the World Trade Center disaster. The test will be conducted by Underwriters Laboratories, Northbrook, Illinois, on August 25, 2004.

DATES: The test is scheduled to be conducted on August 25, 2004, at Underwriters Laboratories in Northbrook, Illinois. A preliminary briefing will be given at 9 a.m., followed by a viewing of the test furnace and floor specimen. A conference room has been set up to view the test remotely, including video and temperature data. The test is scheduled to be completed by 5 p.m. Members of the public wishing to view the test will need to submit their request to attend by 5 p.m. e.d.t. on Wednesday, August 4, 2004, per the instructions under the **SUPPLEMENTARY INFORMATION** section of this notice. NIST will inform selected attendees if the test is re-scheduled for a later date.

ADDRESSES: The test will be conducted at the facilities of Underwriters Laboratories in Northbrook, Illinois. Requests to attend the test must be submitted to Mr. Stephen Cauffman, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8611, Gaithersburg, MD 20899–8611, or via e-mail (*WTC@NIST.gov*) or fax (301–975–4052).

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Cauffman. Mr. Cauffman's e-mail address is *cauffman@nist.gov,* and his phone is 301–975–6051.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology (NIST) began its building and fire safety investigation of the World Trade Center (WTC) disaster in September 2002. This WTC Investigation, led by NIST, is conducted under the authority of the National Construction Safety Team Act (Pub. L. 107–231, codified at 15 U.S.C. 7301 *et seq.*).

Objectives of the WTC Investigation

The objectives of the NIST-led Investigation are to:

1. Determine why and how WTC 1 and WTC 2 collapsed following the initial impacts of the aircraft and why and how WTC 7 collapsed.

2. Determine why the injuries and fatalities were so high or low depending on location, including all technical aspects of fire protection, occupant behavior, evacuation, and emergency response.

3. Determine what procedures and practices were used in the design, construction, operation, and maintenance of WTC 1, 2, and 7.

4. Identify, as specifically as possible, areas in current building and fire codes, standards, and practices that warrant revision.

Resistance-to-Fire Testing

To aid in the analysis of the response of the WTC towers to fires, Underwriters Laboratories, under a contract from NIST, is carrying out fire endurance testing of a typical floor system and individual steel members under the fire conditions prescribed in the ASTM E119 standard test. There will be an opportunity for interested individuals to view the fire test scheduled to be conducted August 25, 2004, at Underwriters Laboratories in Northbrook, IL.

A preliminary briefing will be given at 9 a.m., followed by a viewing of the test furnace and floor specimen. A conference room has been set up to view the test remotely, including video and temperature data. The test is scheduled to be completed by 5 p.m. NIST will inform selected attendees if the test is re-scheduled for a later date.

Requests To Attend

Up to thirty people will be selected to attend the resistance-to-fire floor system test based upon the following factors:

- Balanced representation of a broad group of interests, including the engineering profession, public interest groups and families of victims, emergency responders, standards and code making organizations, and media outlets; and
- Time of receipt of request within each group.

To request an opportunity to attend, NIST must receive the following information via mail to Mr. Stephen Cauffman, National Institute of Standards and Technology, 100 Bureau

Drive, Mail Stop 8611, Gaithersburg, MD 20899–8611 or via e-mail (*WTC@NIST.gov*) or fax (301–975–4052) no later than 5 p.m. (e.d.t.) on August 4, 2004:

- Name and contact information of individual who will be attending;
- Name and complete address of organization(s) that individual represents; and
- Specific group of interest (from above list).

Responses to all requests will be mailed, faxed and/or e-mailed, based upon the information provided to NIST, on August 9, 2004. NIST will also inform selected attendees if the test is re-scheduled for a later date.

Dated: July 18, 2004.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 04–16893 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071904D]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Applications for three scientific research permits and one permit modification.

SUMMARY: Notice is hereby given that NMFS has received three scientific research permit applications–and one application to modify an existing permit–relating to Pacific salmon and steelhead. All of the proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the applications or modification requests must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight-saving time on August 25, 2004.

ADDRESSES: Written comments on the applications or modification requests should be sent to Protected Resources Division, NMFS, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737. Comments may also be sent via fax to 503–230–5435 or by e-mail to *resapps.nwr@NOAA.gov*. Additionally, comments may be submitted electronically through the Federal e-Rulemaking Portal: *http:www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (ph.: 503–231–2005, Fax: 503–230–5435, e-mail: *Garth.Griffin@noaa.gov*). Permit application instructions are available at *http://www.nwr.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species and evolutionarily significant units (ESUs) are covered in this notice:

Sockeye salmon (*Oncorhynchus nerka*): endangered Snake River (SR).

Chinook salmon (*O. tshawytscha*): threatened natural and artificially propagated SR spring/summer (spr/sum); threatened SR fall; threatened lower Columbia River (LCR).

Steelhead (*O. mykiss*): threatened SR; threatened LCR.

Chum Salmon (*O. keta*): threatened Columbia River (CR).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits/modifications based on findings that such permits and modifications: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policies of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA.

Applications Received

Permit 1403 - Modification 1

The Northwest Fisheries Science Center is asking to increase the number of juvenile SR spring/summer chinook salmon (natural) and SR steelhead they take annually in the Salmon River subbasin, Idaho. The research encompasses two studies: Assessment of Three Alternative Methods of Nutrient Enhancement (Salmon Carcasses, Carcass Analogues, and Nutrient Pellets) on Biological Communities in Columbia River Tributaries, and Utilization of Nutrients from Spawning Salmon by Juvenile Chinook Salmon and Steelhead in the Columbia and Snake River Basins. The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purpose of the research is to (a) learn how salmonids acquire nutrients from the bodies of dead spawners and test three methods of using those nutrients to increase growth and survival among naturally produced salmonids and (b) determine the extent to which juvenile steelhead and chinook use marine-derived nutrients and learn more about the relationships between juvenile salmonid body size, population density, and nutrient uptake. The research would benefit the fish by helping managers use nutrient enhancement techniques to recover listed salmonid populations. Moreover, managers would be able to gain a broader understanding of the role marine-derived nutrients play in ecosystem health as a whole. This, in turn, would help inform management decisions and actions intended to help salmon recovery in the future.

Under these studies, the fish would variously be (a) captured (using seines, nets, traps and, possibly, electrofishing equipment) and anesthetized; (b) measured, weighed, and fin-clipped; (c) held for a time in enclosures in the stream from which they are captured; and (d) released. Both projects call for some juvenile listed fish to be intentionally killed as part of the research. It is also likely that a small percentage of the fish being captured would unintentionally be killed during the process. In addition, tissue samples would be taken from adult carcasses found on streambanks.

Permit 1487

The U.S. Fish and Wildlife Service (FWS) is requesting a 5–year research permit to annually capture, handle, and release juvenile LCR steelhead, LCR chinook salmon, and CR chum salmon. The research would take place in Cedar Creek, a tributary to the Lewis River in Washington State. The purpose of the research is to estimate the abundance and determine migration timing of recently-metamorphosed lamprey and juvenile salmonids. The research would benefit the fish by providing information on the population characteristics and, ultimately, would help managers assess population responses to recovery measures.

The FWS proposes to capture the fish using rotary screw traps. Once captured, the salmonids would be anesthetized, identified to species, checked for marks and tags, allowed to recover, and released. The FWS does not intend to

kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1496

The U.S. Forest Service (USFS) is requesting a 5–year research permit to annually capture, handle, and release adult and juvenile LCR steelhead. The research would take place in Trout Creek, a tributary to the Wind River near Carson, Washington. The purpose of the research is to determine what effects Hemlock Dam has on steelhead migration and survival. The USFS intends to examine steelhead migration patterns, growth, survival, and spatial distribution within Hemlock Reservoir. The research would benefit the fish by providing information on the influence the dam has on parr and fry migration, fish residence time, and fish growth and survival in the reservoir. The results of the study would be included in the Hemlock Dam Environmental Impact Statement and would help managers make recommendations to remedy factors causing fish mortality.

The USFS proposes to observe fish during snorkel surveys and capture fish using temporary weirs, beach seines, and backpack electrofishing equipment. Once captured, the fish would be anesthetized, weighed, and measured. Scale and stomach contents samples would then be taken, and the fish would be tagged with Passive Integrated Transponders, allowed to recover, and released. The USFS does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1500

The University of Idaho (UI) is seeking a 5–year research permit to annually capture, handle, and release juvenile SR sockeye salmon, fall chinook salmon, spr/sum chinook salmon, and steelhead. The research would take place in four reservoirs in the lower Snake River. The purpose of the research is to monitor predator and salmonid use of nearshore habitats in the reservoirs and thereby determine the short-term potential for increasing salmonid productivity through various habitat-restoration activities. The researchers would monitor salmonid habitat use in a number of nearshore areas both before and after restoration activities have taken place. The UI would also monitor habitat use in areas that receive no treatment. The research would benefit listed fish by helping guide habitat restoration efforts in reservoirs across the region. The results of the study would be incorporated into various development and dredge disposal plans throughout the lower Snake River.

The UI proposes to capture the fish using beach seines, minnow traps, and boat electrofishing equipment. The captured fish would be anesthetized, weighed and measured, and released. The UI does not intend to kill any of the fish being captured, but a small percentage may die as an intended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30–day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: July 21, 2004.

Susan Pultz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–16959 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072004B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico; Red Snapper; Scoping Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of scoping hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold 10 hearings on a scoping document to solicit public input on the alternative that should be used for an amendment that will create an individual fishing quota (IFQ) program for the commercial red snapper fishery.

DATES: The meetings will be held in August 2004. See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations.

Public comments received by mail or e-mail that are received in the Council office by 5 p.m., September 3, 2004, will be presented to the Council.

ADDRESSES: See Supplementary Information section for hearing addresses.

Written comments on, and requests for, the scoping document should be addressed to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619; telephone: (813) 228–2815. Comments may be sent by e-mail to *gulfcouncil@gulfcouncil.org*. A copy of the scoping document can also be obtained from the Council's web page: *http://www.gulfcouncil.org*.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: The Council will hold 10 hearings on a scoping document to solicit public input on the alternative that should be used for an amendment that will create an individual fishing quota (IFQ) program for the commercial red snapper fishery. The scoping document presented at the hearings will consist of the following two parts: the first part includes a section on vessel monitoring systems (VMS) with alternatives for requiring (or not requiring) participants in the red snapper IFQ program to have VMS to enhance the enforceability of the IFQ program, the second and principal part of the scoping document is an IFQ profile which contains numerous alternatives for structuring the IFQ program. The Council is soliciting public comment on alternatives that it should consider in developing the IFQ program. Persons with commercial reef fish licenses will be mailed a copy of the scoping document.

Scoping Hearings

The scoping hearings will be held at the following locations and dates beginning at 7 p.m. and concluding no later than 10 p.m.:

1. Wednesday, August 11, 2004, Harrah's Lake Charles Casino Hotel, 505 North Lakeshore Drive, Lake Charles, LA 70601; telephone: 337–437–1546;

2. Thursday, August 12, 2004, Holiday Inn Houma, 210 South Hollywood Road, Houma, LA 70360; telephone: 877–800–9383;

3. Friday, August 13, 2004, New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA 70062; telephone: 504–469–5000;

4. Monday, August 16, 2004, Holiday Inn Emerald Beach, 1102 South Shoreline Boulevard, Corpus Christi, TX 78401; telephone: 361–883–5731;

5. Tuesday, August 17, 2004, Palacios Recreation Center, 2401 Perryman,

Palacios, TX 77465; telephone: 361–972–2387;

6. Wednesday, August 18, 2004, San Luis Resort, 5222 Seawall Boulevard, Galveston Island, TX 77551; telephone: 409–740–8616;

7. Monday, August 23, 2004, MS Department of Marine Resources, 1141 Bayview Drive, Biloxi, MS 39530; telephone: 228–374–5000;

8. Tuesday, August 24, 2004, Perdido Beach Resort, 27200 Perdido Beach Boulevard, Orange Beach, AL 36561; telephone: 251–981–9811;

9. Monday, August 30, 2004, National Marine Fisheries Service, 3500 Delwood Beach Road, Panama City, FL 32408; telephone: 850–234–6541; and

10. The time, date, and location of this meeting will be published in the **Federal Register**.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Aring at the Council (see **ADDRESSES**) by July 28, 2004.

Dated: July 20, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–16960 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071404A]

Atlantic Highly Migratory Species (HMS); Notice of Sea Turtle Release/ Protocol Workshops

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of public workshops.

SUMMARY: NMFS is announcing workshops that will demonstrate the proper sea turtle handling and release techniques for vessel operators using pelagic longline gear in the Atlantic Ocean, including the Gulf of Mexico and the Carribean Sea. The workshops will also show the required release equipment and summarize the current regulations involving the mandatory use of handling and release techniques along with the types of release equipment for sea turtles.

DATES: The workshops will be held from July through September 2004. For specific dates and times see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The workshops will be held in Dulac and Larose, LA; Panama City, Pompano Beach and Ft. Pierce, FL; Charleston, SC; Wanchese, NC; Barnegat Light, NJ; East Setauket, NY; Narragansett, RI; and New Bedford, MA. For specific locations and times see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Written comments or questions regarding workshops should be addressed to Charlie Bergmann, 3209 Frederic St. Pascagoula, MS 39567 or by phone at (228)-762–4591 or (228)–623–0748.

Any additional information for Highly Migratory Species can be found online at *http://www.nmfs.noaa.gov/sfa/hms* or by calling Highly Migratory Species Management Division at (301)–713–2347.

SUPPLEMENTARY INFORMATION: Atlantic tuna, swordfish, shark, and billfish fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and regulated pursuant to the Atlantic Tunas Convention Act (ATCA), which authorizes rulemaking to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). Implementing regulations for both the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks and the Billfish Fishery Management Plan are at 50 CFR part 635.

On July 6, 2004, NMFS published a final rule (69 FR 40734) stating that all vessel operators in the pelagic longline fishery in the Atlantic Ocean, including Gulf of Mexico, and Carribean Sea must follow NMFS Careful Release Protocols For Sea Turtle Release With Minimal Injury. For more information about these protocols, visit the HMS web site or call Charlie Bergman (see **ADDRESSES**).

Also on June 1, 2004, NMFS released a Biological Opinion regarding the Atlantic pelagic longline fishery. This Biological Opinion requires NMFS to hold voluntary workshops demonstrating the new sea turtle handling and releasing techniques and equipment. Proper use will increase the post-release survival of the sea turtles. All pelagic longline fisherman (e.g., permit holders, vessel operators, and crew) in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, and any interested parties are strongly encouraged to attend.

The dates, times, and locations of these workshops are scheduled as follows:

1. July 27, 2004, Steven Le Seafood, 8893 Shrimpers Row, Dulac, LA 70353 from 11 a.m. to 2 p.m.

2. July 28, 2004, LaRose civic Center, 307 East 5th St., Larose, LA 70373 from 10 a.m. to 2:30 p.m.

3. July 29, 2004, NMFS Laboratory, 3500 Delwood Beach Dr., Panama City, FL 32408 from 4 p.m. to 7 p.m.

4. August 16, 2004, Pompano Beach Civic Center, 1801 NE 6th St., Pompano Beach, FL 33060 from 10 a.m. to 1 p.m.

5. August 17, 2004, Ft. Pierce Hurricane House, 8400 Picos Rd., Ft Pierce, FL 34945 from 9 a.m. to 12 p.m.

6. August 18, 2004, USCG Training Center, 1050 Register St., Charleston, SC 29405 from 1 p.m. to 4 p.m.

7. August 19, 2004, Etheridge Seafood, 4561 Mill Landing Rd., Wanchese, NC 27981 from 10 a.m. to 2 p.m.

8. September 13, 2004,Barnegat Light Fire Hall, 10th St & Central, Barnegat Light, NJ 24943 from 10 a.m. to 2 p.m.

9. September 14, 2004, New York State Department of Environmental Conservation, 205 Bellmead Rd., East Setauket, NY 11733 from 10 a.m. to 2 p.m.

10. September 16, 2004, Narragansett NOAA Lab, 28 Tarewell Dr., Narragansett, RI 22882 from 4 p.m. to 7 p.m.

11. September 17, 2004, MacCleans Seafood, 10 North Front St., New Bedford, MA 02740 from 10 p.m. to 2 p.m.

Special Accommodations

These meetings are physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Charlie Bergmann at (228) 762–4591 or (228) 623–0748 at least 5 days before the meeting.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 20, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–16951 Filed 7–21–04; 3:07 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061804B]

Marine Mammals and Endangered Species; File Nos. 782–1719, 774–1714, 1029–1675, 662–1661, 1039–1699, 473–1700, 1049–1718, 716–1705, 753–1599, and 642–1536

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permits and permit amendments.

SUMMARY: Notice is hereby given that a permit or permit amendment has been issued to the following applicants for purposes of scientific research:

782–1719 - National Marine Mammal Laboratory (NMML), National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (John Bengtson, Ph.D., Principal Investigator);

774–1714 - Southwest Fisheries Science Center (SWFSC), National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, CA 92037 (Stephen Reilly, Ph.D., Principal Investigator);

1029–1675 - Andrew Szabo, Whale Research Lab, Department of Geography, University of Victoria, Victoria, British Columbia V8W 2Y2, Canada;

662–1661 - Dena Matkin, Box 22, Gustavus, AK 99826;

1039–1699 - Ann Zoidis, Allied Whale, 11 Des Isle Avenue, PO Box 885, Bar Harbor, ME 04609;

473–1700 - Janice Straley, University of Alaska Southeast, 1332 Seward Avenue, Sitka, AK 99835;

1049–1718 - Kate Wynne, University of Alaska Fairbanks, School of Fisheries and Ocean Sciences, 118 Trident Way, Kodiak, AK 99615;

716–1705 - Fred Sharpe, Ph.D., Alaska Whale Foundation, 4739 University Way NE, ı1239, Seattle, WA 98105;

753–1599 - Jim Darling, Ph.D., 2155 West 13th Avenue, Vancouver, B.C. VOR 2Z0, Canada; and

642–1536 - Joseph R. Mobley, Jr., Ph.D., Professor Psychology, University of Hawaii - West Oahu, 96–129 Ala Ike, Pearl City, HI 96782.

ADDRESSES: The permits, permit amendments and related documents are available for review upon written request or by appointment. (See **SUPPLEMENTARY INFORMATION**)

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Jill Lewandowski, (301)713–2289.

SUPPLEMENTARY INFORMATION: On the dates listed below, notice was published in the **Federal Register** that requests for a scientific research permit or permit amendment to take various marine mammal and sea turtle species had been submitted by the above-named individuals or organizations. The requested permits or permit amendments have been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

782–1719 (NMML) and 774–1714 (SWFSC) - notice published on June 4, 2003 (68 FR 33477);

473–1700 (Straley), 662–1661 (Matkin) and 1039–1699 (Zoidis) - notice published on January 21, 2003 (68 FR 2751);

1049–1718 (Wynne) - first notice published on July 18, 2003 (68 FR 42689) and second notice outlining the applicant's changes to their application published on March 9, 2004 (69 FR 10991);

716–1705 (Sharpe) - notice published on June 24, 2003 (68 FR 37466);

1029–1675 (Szabo) - notice published on June 3, 2002 (67 FR 38262);

753–1599 (Darling) - notice published on October 17, 2003 (68 FR 59782) to amend Permit No. 753–1599–00 originally issued on December 27, 2000 (66 FR 1957); and

642–1536 (Mobley) - notice published on January 5, 2004 (69 FR 630) to amend Permit No. 642–1536–00 originally issued on March 3, 2000 (65 FR 13949).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of these permits and permit amendments, as required by the ESA, was based on a finding that such permits or permit amendments (1) were applied for in good faith, (2) will not operate to the disadvantage of the endangered species which are the subject of the permits and permit amendments, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Documents may be reviewed in the following locations:

All documents: Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

File Nos. 782–1719, 716–1705, and 753–1599: Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426;

File Nos. 782–1719, 1029–1675, 662–1661, 473–1700, 1049–1718, and 716–1705: Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249;

File Nos. 774–1714 and 753–1599: Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018; and

File Nos. 1039–1699, 753–1599, and 642–1536: Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm, 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941.

Dated: July 20, 2004.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–16958 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Macau

July 20, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: July 26, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for the recrediting of unused 2003 carryforward, swing, and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 55035, published on September 22, 2003.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 20, 2004.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 16, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on July 26, 2004, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
225	7,767,180 square meters.
317	5,138,631 square meters.
333/334/335	628,459 dozen of which not more than 302,227 dozen shall be in Categories 333/335.
336	141,043 dozen.
338	758,976 dozen.
339	3,106,135 dozen.
340	792,219 dozen.
341	486,824 dozen.
342	209,608 dozen.
345	134,420 dozen.
347/348	1,714,722 dozen.
351	175,179 dozen.
359–C/659–C [2]	924,637 kilograms.
359–V [3]	308,215 kilograms.
625/626/627/628/629	7,428,398 square meters.
633/634/635	1,360,898 dozen.
638/639	3,781,951 dozen.
640	304,838 dozen.
641	335,032 dozen.
642	270,939 dozen.
645/646	714,572 dozen.
647/648	1,263,965 dozen.
659–S [4]	279,483 kilograms.
Group II	
400–414, 433–438, 440–448, 459pt. [5] and 469pt. [6], as a group	1,771,256 square meters equivalent.
Sublevel in Group II	
445/446	97,500 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2003.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[4] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, and 6211.12.1020.

[5] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[6] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 04–16906 Filed 7–23–04; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA), DoD.

ACTION: Open meeting notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Appendix 2 of title 5, United States Code, Pub. L. 92–463, notice is hereby given that a meeting of the Advisory Council on Dependents' Education (ACDE) is scheduled to be held on September 24, 2004, from 8 a.m. to 5 p.m. The meeting will be held at the DoDEA headquarters building at 4040 North Fairfax Drive, Arlington, Virginia 22203. The purpose of the ACDE is to recommend to the Director, DoDEA, general policies for the operation of the Department of Defense Dependents Schools (DoDDS); to provide the Director with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense. The meeting emphases will be the current operational qualities of DoDDS and the Institutionalized school improvement processes, as well as other educational matters. For further information contact Mr. Jim Jarrard, at 703–588–3121 or at *James.Jarrard@hq.dodea.edu.*

Dated: July 20, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–16934 Filed 7–23–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Air Force is amending two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2004 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 696–6280.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 20, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AETC K

SYSTEM NAME:

Officer Training Group (OTG) Resource Management System—Officer Trainees (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Office Training School Flight Training Information System'.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Officer trainee record showing name, performance data such as written and physical fitness test scores, measurement evaluations, merits and demerits earned, involvement in remedial programs, counseling documentation, student disposition indicators showing first time in training or recycled back into the program.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete from entry 'Air Education and Training Command Regulation 53–3, Administration of the Officer Training School (OTS) Program, and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'To monitor the progress of an individual toward completion of the program. Records may be grouped by class, squadron, flight, or performance factor in the accomplishment of evaluations of the program or the individual in relation to peers. Studies, analyses, and evaluations that use these records are intended to rank order graduates for each class and determine award winners, *e.g.,* Distinguished Graduate, Top Academic Winner, etc.'

* * * * *

RETRIEVABILITY:

Delete from entry 'Social Security Number' and add 'name, class, squadron, or flight.'

* * * * *

F036 AETC K

SYSTEM NAME:

Officer Training School Flight Training Information System.

SYSTEM LOCATION:

Officer Training School, 501 LeMay Plaza North, Maxwell Air Force Base, AL 36112–6417.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officer trainees while attending Officer Training School (OTS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer trainee record showing name, performance data such as written and physical fitness test scores, measurement evaluations, merits and demerits earned, involvement in remedial programs, counseling documentation, student disposition indicators showing first time in training or recycled back into the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 907, Schools and camps as implemented by Air Force Instruction 36–2013, Airman Commissioning Programs and Officer Training School.

PURPOSE(S):

To monitor the progress of an individual toward completion of the program. Records may be grouped by class, squadron, flight, or performance factor in the accomplishment of evaluations of the program or the individual in relation to peers. Studies, analyses, and evaluations that use these records are intended to rank order graduates for each class and determine award winners, *e.g.*, Distinguished Graduate, Top Academic Winner, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape, disk units, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by individual's name, class, squadron, or flight.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records are retained for two years after class graduation then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Flight Training Officer Information System, 501 LeMay Plaza North, Maxwell Air Force Base, AL 36112–6417.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to or visit the Manager, Flight Training Officer Information System, 501 LeMay Plaza North, Maxwell Air Force Base, AL 36112–6417.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address written requests to or visit the Manager, Flight Training Officer Information System, 501 LeMay Plaza North, Maxwell Air Force Base, AL 36112–6417.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, flight commanders, OTS

instructors, personnel specialists and members of the registrar's office.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F090 AF IG B

SYSTEM NAME:

Inspector General Records (March 27, 2003, 68 FR 14953).

F090 AF IG B

CHANGE:

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

In the second paragraph, replace the second ''exempt'' with ''except'' and replace ''identify'' with ''identity''.

* * * * *

SYSTEM NAME:

Inspector General Records.

SYSTEM LOCATION:

Office of the Inspector General, Office of the Secretary of the Air Force (SAF/IG), 1140 Air Force Pentagon, Washington, DC 20330–1140. Records are also located at the headquarters of major commands, headquarters of combatant commands for which Air Force is Executive Agent, and at all levels down to and including Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All those who have registered a complaint, allegation or query with the Inspector General or Base Inspector. All individuals who are or have been subjects of reviews, inquiries, or investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters/transcriptions of complaints, allegations and queries; letters of appointment; reports of reviews, inquiries and investigations with supporting attachments, exhibits and photographs; record of interviews; witness statements; reports of legal review of case files, congressional responses; memoranda; letters and reports of findings and actions taken; letters to complainants and subjects of investigations; letters of rebuttal from subjects of investigations; finance; personnel; administration; adverse information, and technical reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: powers and duties; delegation by 10, U.S.C. 8020, Inspector General, and E.O. 9397 (SSN).

PURPOSE(S):

Used to insure just, thorough, and timely resolution and response to complaints, allegations or queries, and a means of improving moral, welfare, and efficiency of organizations, units, and personnel by providing an outlet for redress. Used by the Inspector General and Base Inspectors in the resolution of complaints and allegations and responding to queries. Used in connection with the recommendation/selection/removal or retirement of officers eligible for promotion to or serving in, general officer ranks.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on electronic media.

RETRIEVABILITY:

Retrieved by Complainant's name, subject of investigation's name and case number.

SAFEGUARDS:

Records are accessed by custodian of the system of records and by person(s) responsible for maintaining the system of records in the performance of their official duties. These personnel are properly screened and cleared for need-to-know. Records are stored in a locked room protected by cipher lock. Information maintained on electronic media is protected by computer system software and password.

RETENTION AND DISPOSAL:

Retained in office files for two years after year in which case is closed. For senior official case files, retained in office files until two years after the year in which case is closed, or two years after the senior official retires, whichever is later. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

The Inspector General, Office of the Secretary of the Air Force (SAF/IG), 1140 Air Force Pentagon, Washington, DC 20330–1140.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to or visit the Inspector General, Office of the Secretary of the Air Force (SAF/IG), 1140 Air Force Pentagon, Washington, DC 20330–1140 or IG offices at installations.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Inspector General, Office of the Secretary of the Air Force (SAF/IG), 1140 Air Force Pentagon, Washington, DC 20330–1140 or IG offices at installations.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Complainants, inspectors, members of Congress, witnesses, and subjects of investigations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principle function any activity pertaining to the enforcement of criminal laws.

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5

U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.

[FR Doc. 04–16935 Filed 7–23–04; 8:45 am]
BILLING CODE 5001–OG–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to delete systems of records.

SUMMARY: The Department of the Air Force is deleting fourteen systems of records notices from its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. These records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

DATES: This proposed action will be effective without further notice on August 25, 2004 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 696–6280.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 20, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F065 AFA A

SYSTEM NAME:

Cadet Accounting and Finance System (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AF AFC A

SYSTEM NAME:

Accounts Payable Records (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AF AFC B

SYSTEM NAME:

Accounts Receivable Records Maintained by Accounting and Finance (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AF AFC F

SYSTEM NAME:

Reports of Survey (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC A

SYSTEM NAME:

Accounting and Finance Officer Accounts and Substantiating Documents (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC B

SYSTEM NAME:

Accrued Military Pay System, Discontinued (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC D

SYSTEM NAME:

Claims Case File—Active Duty Casualty Case Records (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the conginzance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC E

SYSTEM NAME:

Claims Case File—Corrected Military Records (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC F

SYSTEM NAME:

Claims Case File—Missing in Action Data (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC H

SYSTEM NAME:

Loss of Funds Case Files (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC I

SYSTEM NAME:

Military Pay Records (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC J

SYSTEM NAME:

Pay and Allotment Records (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and

Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AFAFC L

SYSTEM NAME:

Legal Administration Records of the Staff Judge Advocate (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

F065 AETC A

SYSTEM NAME:

Air Force ROTC Cadet Pay System (June 11, 1997, 62 FR 31793).

REASON:

Records are now under the cognizance of the Defense Finance and Accounting Service (DFAS) and are being maintained under DFAS Privacy Act systems of records notices.

[FR Doc. 04–16936 Filed 7–23–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 25, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 21, 2004.

Jeanne Van Vlandren,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Annual Performance Report for the Ronald E. McNair Postbaccalaureate Achievement (McNair) Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 179.

Burden Hours: 895.

Abstract: McNair grantees must submit the report annually. The reports are used to evaluate the performance of grantees prior to awarding continuation funding and to assess a grantee's prior experience at the end of the budget period. The Department will also aggregate the data across grantees to provide descriptive information on the Program and to analyze the impact of the Program on the academic progress of participating students.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2554. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 04–16927 Filed 7–23–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 25, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of

the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 21, 2004.

Jeanne Van Vlandren,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Part C of the Individuals with Disabilities Education Act Annual Performance Report.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 1,710.

Abstract: States are required to submit a performance report to the Secretary under Section 80.40 of the Education Department General Administrative Regulations. The State Interagency Coordinating Committee is required under Section 641of Part C of the Individuals with Disabilities Education Act (IDEA) to submit an annual report to the Secretary and the State's Governor on the status of the early intervention program for infants and toddlers with disabilities and their families. This collection serves both of these functions. The Office of Special Education Programs (OSEP) is implementing an integrated, four-part accountability strategy: (1) Verifying the effectiveness and accuracy of States' monitoring, assessment, and data collection systems; (2) attending to States at high risk for compliance, financial, and/or management failure; (3) supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies; and (4) focusing OSEPs' intervention on States with low ranking performance on critical performance indicators. Component 3 of OSEPs' accountability strategy is implemented through this Annual Performance Report. Reporting requirements for States' Self-Assessments, Improvement Plans, and Annual Performance Reports are being combined in this Part C Annual Performance Report.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2574. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 04–16928 Filed 7–23–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 25, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 21, 2004.

Jeanne Van Vlandren,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.

Title: Student Aid Report (SAR).

Frequency: Annually.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 20,675,546.

Burden Hours: 4,486,234.

Abstract: The Student Aid Report (SAR) is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2542. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 04–16929 Filed 7–23–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a new system of records for the Return of Title IV Funds on the Web (R2T4OTW). R2T4OTW is a web-based product the Department provides for institutions to calculate the earned and unearned portions of student aid distributed under Title IV of the Higher Education Act of 1965, as amended (HEA), when a student withdraws from a postsecondary institution without completing the period for which funds were awarded.

DATES: The Department seeks comments on the new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on or before August 25, 2004.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on July 21, 2004. This new system of records will become effective on the later of the two following dates—(1) The expiration of the 40-day period for OMB review on August 30, 2004, or the expiration of a 30-day OMB review period on August 23, 2004 if OMB grants the Department's request for a 10-day waiver of the review period; or (2) August 25, 2004, unless the system of records requires changes as a result of public comment or OMB review. The Department will publish any changes resulting from public comment or OMB review.

ADDRESSES: Address all comments about this new system of records to Marya Dennis, Management and Program Analyst, Application Processing Division, Students Channel, Federal Student Aid, U.S. Department of Education, 830 First Street, NE., UCP room 31I1, Washington, DC 20202–5454. If you prefer to send your comments through the Internet, use the following address: *comments@ed.gov*.

You must include the term ''Return of Title IV Funds on the Web'' in the subject line of your electronic message.

During and after the comment period, you may inspect all public comments about this notice in room 31F2, Union Center Plaza, 830 First Street, NE., Washington, DC, 20202–5454 between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Marya Dennis. Telephone: (202) 377–3385. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) requires the Department to publish in the **Federal Register** this notice of a new system of records. The Department's regulations implementing the Privacy Act are contained in part 5b of title 34 of the Code of Federal Regulations (CFR).

The Privacy Act applies to information about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with the individual, such as a name or social security number (SSN). The information about the individual is called a ''record'' and the system, whether manual or computer-based, is called a ''system of records.'' The Privacy Act requires agencies to publish a notice of a new system of records in the **Federal Register** and to prepare a report to OMB whenever the agency publishes a new system of records or makes a significant change to an established system of records. Each agency is also required to send copies to the Chair of the Senate Committee on Governmental Affairs and the Chair of the House Committee on Government Reform. These reports are intended to permit an evaluation of the probable or potential effect of the proposal on the privacy rights of individuals.

The records for the system described in this notice are created by a web-based product the Department provides for institutions to calculate the earned and unearned portions of student aid distributed under Title IV of the Higher Education Act of 1965, as amended (HEA), when a student withdraws from a postsecondary institution before completing the period for which the funds were awarded. The institution collects and enters the required data into the web-based product, and the product calculates the earned and unearned amounts of Title IV aid, and the amounts that must be returned to the Title IV programs by the student and the school. When applicable, the product also determines the amount of additional funds the student must be offered as a post-withdrawal disbursement. The institution may also use this information to provide required notifications to the Title IV recipient and to track the recipient's responses as provided under section 484B of the HEA (20 U.S.C. 1091b) and the implementing regulations in 34 CFR 668.22. In addition to the calculation, the institution may choose to generate a variety of useful reports. These reports include a listing of all students who have withdrawn from the institution; a report of students to be notified by the institution on the results of the Return of Title IV Funds (R2T4) calculation; a report of the students who owe a Title IV grant overpayment and whether the student has taken positive action to establish repayment; a report of the students for which the institution has responsibility to repay Title IV funds to the programs; a report on post-withdrawal disbursements that the institution must offer to the Title IV recipient; and a report on students who owe a Title IV grant overpayment that the institution must refer to the Department. These reports are only available to the institutional users that input the data and that access the reports using their unique log-in codes and passwords. The information described in this system of records is not linked to any other Department, Federal, State, lender or guarantee agency systems.

This system includes records on students for whom Title IV funds were

disbursed or were eligible to be disbursed for the period of time the student was in attendance during a payment period or period of enrollment. The records contain personally identifiable information about each withdrawn student. These records may include, but are not limited to, student name, permanent and local addresses, social security number, and date of birth. This system may also contain information about the institution, and the educational program in which the student had been enrolled before withdrawing, including but not limited to: The school's Federal school code, the award year, the total institutional charges, the program calendar type (credit hour or clock hour), the starting and ending dates of the payment period or period of enrollment, the withdrawal date, the withdrawal reason, the date the institution provided notice to the student of the overpayment, the date on which the recipient responded to the required notification, and the types and amounts of Title IV funds that must be returned by the student or institution, or a post-withdrawal disbursement (a disbursement for which the student is eligible after his or her withdrawal), as applicable, as well as the recipient's response, the amount that the recipient and the institution may retain, as well as any contemporaneous notes regarding the R2T4 process for each student's record.

This new system of records, R2T4OTW, can maintain information provided by the institution to track required institutional notifications to Title IV recipients and their responses to those notifications, as well as to provide reports to the institution that indicate the number of days remaining to take statutorily required actions.

Electronic Access To This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html/*.

Dated: July 21, 2004.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer of Federal Student Aid of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–11–15

SYSTEM NAME:

Return of Title IV Funds on the Web.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Application Processing Division, Students Channel, Federal Student Aid, U.S. Department of Education, 830 First St. NE., Washington, DC 20202–5454.

Virtual Data Center (VDC), Meriden Data Center, 71 Deerfield Lane, Meriden, Connecticut 06450.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system includes records on individuals who were enrolled at a postsecondary institution, have received or are eligible to receive assistance under a Title IV, HEA program for a payment period or period of enrollment, and have withdrawn prior to the planned completion date of school during that period.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains personally identifiable information provided by the school from which a student has withdrawn that may include, but is not limited to, a student's name, permanent and local addresses, social security number, date of birth, driver's license number and state, permanent and local phone numbers, and student identification (ID). This system also contains information provided by the institution from which the student has withdrawn that is necessary to compute the earned and unearned amounts of Title IV funds. This information may include, but is not limited to, the student's: Federal school code, award year, grade level, program type (*i.e.* credit hour or clock hour), school calendar (that maintains the term start and end dates and institutionally scheduled breaks of five or more consecutive days), a description and amount of each institutional charge (a charge for tuition and fees, a charge for room, a charge for board, and charges for other educationally-related costs), and the total institutional charges for a program, program title, or program type, whether the R2T4 calculation is based upon a payment period or period of enrollment, the total clock hours or number of days in the payment period or period of enrollment, the withdrawal date, the net number of days in the payment period or period of enrollment, the date the institution determined the student withdrew (as reported by the institution), a description of the type of withdrawal, the number of days of an approved leave of absence, whether an outside entity requires the school to take attendance, the clock hours scheduled, the clock hours completed, the date the student provided the institution with written authorization to credit Title IV aid to the student's account, the date the institution notified the student of the amounts and types of Title IV funds that must be returned, the date and response of the student, the types and amounts of Title IV aid disbursed and that could have been disbursed, the types and amounts of Title IV aid that must be returned to each program by the student and the institution, the types and amounts of aid that the student and the institution may retain, post-withdrawal disbursement information (*i.e.*, the amount of outstanding charges, the dates notices were sent informing the student that a credit was applied and/or that a disbursement was available and the dates and responses of the student, the amount and the date the student accepted a post-withdrawal disbursement, and the date the post-withdrawal disbursement was completed), the date the R2T4 procedure was completed, the user defined field data provided by the institution such as grade point average, major in college, overpayment status, withdrawal reason, leave of absence reason, and contemporaneous notes regarding the student's return process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The information maintained in the R2T4OTW system is authorized under section 484B of the HEA. Under section 484B of the HEA (20 U.S.C. 1091b), if a recipient of Title IV grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the student began attendance, a participating institution must determine the amount of grant and loan assistance to be returned to the Title IV programs.

PURPOSE(S):

Information contained in this system is maintained for the purposes of: (1) Allowing postsecondary institutions to calculate the treatment of Title IV funds when a student withdraws from a postsecondary institution, (2) allowing institutions to track students' statuses

and responses to institutional notifications, and (3) generating listings and reports, allowing institutions to establish compliance with the applicable statutory and regulatory requirements in the HEA for the treatment of Title IV funds when a student ceases his or her enrollment before the planned end date. (**Note:** The use of this software is not required.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USERS:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Program Disclosures.* The Department may disclose records to the postsecondary institution that input the information into the R2T4OTW system, in order to simplify the current process, provide institutions and their agents with consolidated information about the Federal loans and grants they administer for students, and enable them to provide students with accurate required information when a student withdraws.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, or local agency responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law if that information is relevant to any authorized enforcement, investigative, or prosecutorial effort.

(3) *Enforcement Disclosure.* If information in the system of records either alone or in connection with other information indicates a violation or potential violation of any applicable statutory, regulatory, or legally binding requirement, the Department may disclose records to an entity charged with investigating or prosecuting those violations or potential violations.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the following parties is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any of its components; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity where the Department of Justice (DOJ) agrees to or has been requested to provide or arrange for representation of the employee; or

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the DOJ.

(b) *Adjudicative disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(c) *Parties, counsel, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the DOJ or the OMB if the Department determines that disclosure would help in determining whether records are required to be disclosed under the FOIA or the Act.

(6) *Contract Disclosure.* If the Department contracts with an entity to perform any function that requires disclosing records to the contractor's employees, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to establish and maintain the safeguards required under the Act (5 U.S.C. 552a(m)) with respect to the records.

(7) *Congressional Member Disclosure.* The Department may disclose records to a Member of Congress in response to an inquiry from the Member made at the written request of the individual whose records are being disclosed. The Member's right to the information is no greater than the right of the individual who requested it.

(8) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(9) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: a complaint, grievance, discipline or competence determination proceeding. The disclosure may only be made during the course of the proceeding.

(10) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(11) *Disclosure to DOJ.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to any program covered by this system.

(12) *Research Disclosure.* The Department may disclose records to a researcher if the Department determines that the individual or organization to which the disclosure would be made is

qualified to carry out specific research related to functions or purposes of this system of records. Further, the Department may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain safeguards with respect to the disclosed records as required by the Act.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose the following information to a consumer reporting agency regarding a valid overdue claim of the Department: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

R2T4OTW records are backed up and maintained on magnetic tape at the Department's Virtual Data Center (VDC), located at 71 Deerfield Lane, Meriden, CT 06450, and locked storage rooms within the VDC.

RETRIEVABILITY:

Records for R2T4OTW are indexed and can be retrieved by only the institution that created the record at the VDC and the Department. The institution accesses its own student R2T4OTW records through a secure log-in process and subsequently entering the institution's unique Federal school code and the student's Social Security Number.

SAFEGUARDS:

Physical access to the data systems housed within the VDC facility is controlled by a computerized badge reading system, and the entire complex is patrolled by security personnel during non-business hours. This computer system offers a high degree of resistance to tampering and circumvention. Multiple levels of security are maintained within the computer system control program. This security system limits data access to Department staff, participating institutions, and contract staff on a ''need-to-know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. Users are only able to access and alter records created with their unique identifiers. All interactions by individual users with the system are recorded. The systems manager annually updates and sends the Department the Central Processing System Security Plan, documenting the VDC's detailed security systems, including the physical location of the data stored at the VDC. This system does not use persistent cookies (data that a web server causes to be placed on a user's hard drive) to implement personalization. It is the policy of the Department to prohibit the use of persistent cookies on U.S. Department of Education web sites except where: there is a compelling need; there are appropriate safeguards in place; the use is personally approved by the Secretary of Education; and there is clear and conspicuous notice to the public.

RETENTION AND DISPOSAL:

The Department will retain all identifiable records received from schools with identifying information for a period not to exceed three years after the repayment or cancellation of the loan in accordance with the Education Comprehensive Schedule, ED–RDS—Part 10, Item 16(d) for applicants with federally insured loans. For applicants without federal insured loans, the Department will retain all identifiable records received with identifying information for a period not to exceed fifteen years after the final Pell Grant payment or audit, whichever is first in accordance with the Education Comprehensive Schedule, ED–RDS—Part 10, Item 17(a) and (b). At the conclusion of the mandatory retention period, these records will be destroyed. This procedure is consistent with legal retention requirements established by the Department in conjunction with the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Application Processing Division, Students Channel, Federal Student Aid, U.S. Department of Education, 830 First St., NE., UCP room 32E2, Washington, DC 20202–5454.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, contact the system manager and provide the name of the system (R2T4OTW), your name, date of birth, and Social Security Number or call 1–800–4–FED–AID (1–800–433–3243) and provide the identifiers indicated above when requesting information contained in this system of records. Requests for notification about whether this system of records contains information about an individual must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and provide the information described in the Notification Procedure. Requests by an individual for access to a record must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records for the current processing year R2T4OTW, contact the system manager with the information described in the Notification Procedure, identify the specific items to be changed, the institution and period of time the student was enrolled, and provide a justification for the change. The Department will contact the institution, which will make the change to the student's record, as applicable. Requests to amend a record must meet the requirements of the regulations in 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

The institution from which a student receiving Title IV aid for the payment period or period of enrollment has withdrawn provides the information used in this system by manually entering it in the web product on the Department's web site. For institutions that have access to the Internet, R2T4OTW is available on the Department of Education web site located at: *http://www.fafsa.ed.gov/FOTWWebApp/faa/faa.jsp.*

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 04–16963 Filed 7–23–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL04–68–002, ER04–850–001]

Bridger Valley Electric Association, Inc., Bridger Valley Electric Association, Inc.; Notice of Filing

July 19, 2004.

Take notice that on July 14, 2004, Bridger Valley Electric Association, Inc. (Bridger Valley), submitted its compliance filing in response to the Commission's Order in Bridger Valley Electric Association, Inc., 107 FERC ¶ 61,270 (2004). Specifically, Bridger Valley states that it has filed revised tariff sheets reflecting a change to its open access transmission tariff (OATT) indicating that Order No. 2003 only covers generators greater than 20 MW.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on August 4, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1650 Filed 7–23–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[RT01–99–000, RT01–99–001, RT01–99–002 and RT01–99–003, RT01–86–000, RT01–86–001 and RT01–86–002, RT01–95–000, RT01–95–001 and RT01–95–002, RT01–2–000, RT01–2–001, RT01–2–002 and RT01–2–003, RT01–98–000, RT02–3–000]

Regional Transmission Organizations, Bangor Hydro-Electric Company, et al., New York Independent System Operator, Inc., et al., PJM Interconnection, L.L.C., et al., PJM Interconnection, L.L.C., ISO New England, Inc., New York Independent System Operator, Inc.; Notice

July 19, 2004.

Take notice that PJM Interconnection, L.L.C., New York Independent System Operator, Inc. and ISO New England, Inc. have posted on their Internet Web sites charts and information updating their progress on the resolution of ISO seams.

Any person desiring to file comments on this information should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such comments should be filed on or before the comment date. Comments may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: August 9, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1648 Filed 7–23–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER04–812–001, et al.]

Duke Energy Corporation, et al.; Electric Rate and Corporate Filings

July 20, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Duke Energy Corporation

[Docket No. ER04–812–001]

Take notice that, on July 16, 2004, Duke Energy Corporation, on behalf of Duke Electric Transmission (collectively, Duke) submitted a compliance filing pursuant to the Commission's Letter Order issued July 2, 2004, in Docket No. ER04–812–000. Duke states that the compliance filing adds Tables of Contents to the Large Generator Interconnection Procedures and the Large Generator Interconnection Agreement in the Duke open access tariff, to be made effective April 26, 2004.

Duke states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Comment Date: 5 p.m. eastern time on August 6, 2004.

2. Ohmus Energy Company, LLC

[Docket No. ER04–848–001]

Take notice that on July 14, 2004, the Ohmus Energy Company, LLC, pursuant to the Commission's deficiency letter issued July 1, 2004, submitted an Amendment to its May 17, 2004, filing in Docket No. ER04–848–000.

Comment Date: 5 p.m. eastern time on August 4, 2004.

3. PJS Capital, LLC

[Docket No. ER04–896–001]

Take note that on July 15, 2004, PJS Capital, LLC (PJS Capital), pursuant to the Commission's deficiency letter issued July 1, 2004, filed an amendment to its May 25, 2004, filing in Docket No. ER04–896–000.

Comment Date: 5 p.m. eastern time on August 5, 2004.

4. PJM Interconnection, L.L.C.

[Docket No. ER04–988–001]

Take notice that on July 16, 2004, PJM Interconnection, L.L.C. (PJM), submitted for filing a substitute interconnection service agreement (ISA) among PJM, PPL Distributed Generation, LLC, and Public Service Electric and Gas

Company designated as Substitute Original Service Agreement No. 1046 under PJM Interconnection FERC Electric Tariff Sixth Revised Volume No. 1. PJM requests an effective date of June 4, 2004.

PJM states that copies of this filing were served upon the parties to the agreement and the state regulatory commissions within the PJM region.

Comment Date: 5 p.m. eastern time on August 6, 2004.

5. Virginia Electric and Power Company

[Docket No. ER04–1021–000]

Take notice that on July 15, 2004, Virginia Electric and Power Company (Dominion Virginia Power) submitted Tenth Revised Service Agreement Nos. 253 and 49 under Virginia Electric and Power FERC Electric Tariff, Second Revised Volume No. 5, unexecuted service agreements with Sempra Energy Trading Corp. Dominion Virginia Power requests an effective date of June 15, 2004.

Dominion Virginia Power states that copies of the filing were served upon Sempra Energy Trading Corp., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: 5 p.m. eastern time on August 5, 2004.

6. Choice Energy Services, L.P.

[Docket No. ER04–1022–000]

Take notice that on July 15, 2004, Choice Energy Services, L.P. (Choice) submitted a Petition for Acceptance of Choice Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations. Choice states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer. Choice also states that it is not in the business of generating or transmitting electric power.

Comment Date: 5 p.m. eastern time on August 5, 2004.

7. Virginia Electric and Power Company

[Docket No. ER04–1023–000]

Take notice that on July 15, 2004, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing First Revised Service Agreement Nos. 379 and 380 under Virginia Electric and Power Company FERC Electric Tariff, Second Revised Volume No. 5, unexecuted service agreements with Igenco Wholesale Power LLC. Dominion Virginia Power requests an effective date June 15, 2004.

Dominion Virginia Power states that copies of the filing were served upon Ingenco Wholesale Power LLC, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: 5 p.m. eastern time on August 5, 2004.

8. New York Independent System Operator, Inc.

[Docket No. ER04–1024–000]

Take notice that on July 15, 2004, the New York Independent System Operator, Inc. (NYISO) filed proposed revisions to the Independent System Operator Agreement. NYISO states that the proposed revisions would amend the Independent System Operator Agreement to allow Demand reduction providers and Distributed Generators to be added as voting members in stakeholder governance.

NYISO states that it has served a copy of the filing to all parties that have executed Service Agreements under the NYISO's OATT or Services Tariff, the New York State Public Services Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: 5 p.m. eastern time on August 5, 2004.

9. PJM Interconnection, L.L.C.

[Docket No. ER04–1025–000]

Take notice that on July 16, 2004, PJM Interconnection, L.L.C. (PJM), submitted for filing Original Service Agreement No. 1048, under PJM's FERC Electric Tariff Sixth Revised Volume No. 1, an executed interconnection service agreement (ISA) among PJM, Handsome Lake Energy, L.L.C., and Pennsylvania Electric Company, a FirstEnergy Company. PJM requests an effective date of June 16, 2004.

PJM states that copies of this filing were served upon the parties to the agreement and the state regulatory commissions within the PJM region.

Comment Date: 5 p.m. eastern time on August 6, 2004.

10. Ohio Valley Electric Corporation Indiana-Kentucky Electric Corporation

[Docket No. ER04–1026–000]

Take notice that on July 16, 2004, Ohio Valley Electric Corporation, (OVEC) and its wholly owned subsidiary, Indiana-Kentucky Electric Corporation (IKEC) submitted for filing an Amended and Restated Inter-Company Power Agreement among OVEC and certain other companies named within that agreement as ''Sponsoring Companies''; and OVEC's First Revised Rate Schedule NO. 1, an Amended and Restated Power Agreement between OVEC and IKEC (the Amended Agreements). OVEC also tendered for filing a Termination Agreement relating to the First Supplementary Transmission Agreement among OVEC and the Sponsoring Companies (Supplementary Transmission Agreement). OVEC requests an effective date of March 13, 2006.

OVEC states that copies of the filing were served upon Allegheny Energy Supply Company, LLC, Appalachian Power Company, the Cincinnati Gas & Electric Company, Columbus Southern Power Company, the Dayton Power and Light Company, FirstEnergy Generation Corp., Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Power Company, Southern Indiana Gas and Electric Company, the Utility Regulatory Commission of Indiana, the Public Service Commission of Kentucky, the Public Service Commission of Maryland, the Public Service Commission of Michigan, the Public Utilities Commission of Ohio, the Public Utility Commission of Pennsylvania, Tennessee Regulatory Authority, the State Corporation Commission of Virginia and the Public Service Commission of West Virginia.

Comment Date: 5 p.m. eastern time on August 6, 2004.

11. Rocky Mountain Power, Inc.

[Docket No. ER04–1027–000]

Take notice that on July 16, 2004, Rocky Mountain Power, Inc. (RMP) submitted a request for approval of Rocky Mountain Power Inc. FERC Electric Tariff, Original Volume No. 1; the grant of certain blanket approvals including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

RMP requests that the rate schedule become effective 60 days after the filing date.

Comment Date: 5 p.m. eastern time on August 6, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or

protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on August 6, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1647 Filed 7–23–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL04–119–000, et al.]

Quest Energy, L.L.C., et al.; Electric Rate and Corporate Filings

July 16, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Quest Energy, L.L.C. v. The Detroit Edison Company

[Docket No. EL04–119–000]

Take notice that on July 14, 2004, Quest Energy, L.L.C. (Quest) filed a formal complaint against The Detroit Edison Company (Detroit Edison) pursuant to 18 CFR 385.206. Quest alleges that Detroit Edison failed to compensate Quest for imbalance energy provided to Detroit Edison during a 38 hour period between August 14 and 16, 2003. Quest states that as a result of Detroit Edison's failure to follow its Tariff and refusal to apply Schedule 4 to energy deliveries during this period, Quest has been under-compensated approximately $449,852, including interest.

Comment Date: 5 p.m. eastern time on August 3, 2004.

2. Carthage Energy, LLC, Energetix, Inc., New York State Electric & Gas Corporation, NYSEG Solutions, Inc., Rochester Gas and Electric Corporation, PEI Power II, LLC, South Glens Falls Energy, LLC, Hartford Steam Company

[Docket Nos. ER99–2541–005, ER97–3556–013, ER99–221–007, ER99–220–010, ER97–3553–001, ER01–1764–002, ER00–262–004, and ER04–582–003]

Take notice that on July 12, 2004, Carthage Energy, LLC, Energetix, Inc. (Energetix), New York State Electric & Gas Corporation, NYSEG Solutions, Inc., Rochester Gas and Electric Corporation (RG&E), PEI Power II, LLC (PE12), and South Glens Falls Energy, LLC submitted a compliance filing in triennial market power analysis. Energetix, RG&E and PE12, also submitted revised tariff sheets to incorporate the market behavior rules adopted the Commission, Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 105 FERC ¶ 61,218 (2003). In addition, Hartford Steam Company, in compliance with Acadia Power Partners, LLC, 107 FERC ¶ 61,168 (2004) tendered for filing an amendment to its pending market-based rate application in Docket No. ER04–582–000.

Comment Date: 5 p.m. eastern time on August 2, 2004.

3. El Dorado Energy, LLC

[Docket No. ER99–3865–001

Take notice that on July 12, 2004, El Dorado Energy, LLC (El Dorado) submitted an updated market power analysis. El Dorado also tendered for filing amendments to its market-based rate tariff in compliance with the Commission's order issued November 17, 2003, in Docket No. EL01–118–000.

Comment Date: 5 p.m. eastern time on August 2, 2004.

4. Cross-Sound Cable Company, LLC

[Docket No. ER00–1–004]

Take notice that on July 14, 2004, Cross-Sound Cable Company, LLC (CSC LLC) filed a motion for waiver of section 141.1 of the Commission's regulations that requires it to file FERC Form No. 1, Annual Report of Major Electric Utilities. CSC LLC states that because of CSC LLC's unique circumstances, the Form No. 1 filing requirement is neither necessary nor appropriate, and the annual Form No. 1 filing requirement should be waived for CSC LLC.

Comment Date: 5 p.m. eastern time on August 4, 2004.

5. AES Ironwood, LLC

[Docket No. ER01–1315–000]

Take notice that on July 12, 2004, AES Ironwood, LLC (Ironwood) submitted for filing its triennial market power update analysis. Ironwood also submitted for filing amendments to its market-based rate tariff implementing the Market Behavior Rules adopted by the Commission, Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorization, 105 FERC ¶ 61,218 (2003). In addition, Ironwood also submitted for approval its revision to FERC Electric Tariff, Original Volume No. 1, and its first revision to its Statement of Policy and Code of Conduct.

Comment Date: 5 p.m. eastern time on August 2, 2004.

6. PPL Wallingford Energy LLC

[Docket No. ER01–1559–002]

Take notice that on July 12, 2004, PPL Wallingford Energy LLC (PPL Wallingford) submitted for filing an updated market power analysis. PPL Wallingford also filed revisions to its FERC Electric Tariff, Original Volume No. 1 to incorporate the Market Behavior Rules adopted by the Commission in Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 105 FERC ¶ 61,218 (2003).

Comment Date: 5 p.m. eastern time on August 2, 2004.

7. PPL Southwest Generation Holdings, LLC

[Docket No. ER01–1870–002]

Take notice that on July 12, 2004, PPL Southwest Generation Holdings, LLC (PPL Southwest Generation) filed an updated market power analysis. PPL Southwest Generation also filed revisions to its market-based rate tariff to incorporate the Market Behavior Rules the Commission adopted by order issued November 17, 2003, in Docket No. EL01–118–000.

PPL Southwest Generation states that it has served a copy of this filing on the parties on the Commission's official service list for Docket No. ER01–1870–002.

Comment Date: 5 p.m. eastern time on August 2, 2004.

8. Moses Lake Generating LLC

[Docket No. ER01–1871–002]

Take notice that on July 12, 2004, Moses Lake Generating LLC (Moses Lake) filed with the Commission its triennial updated market analysis. Moses Lake also tendered for filing an amendment to its FERC Electric Tariff to incorporate the Market Behavior Rules adopted by the Commission, Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 105 FERC ¶ 61,218 (2003).

Comment Date: 5 p.m. eastern time on August 2, 2004.

9. Entergy Services, Inc.

[Docket No. ER03–861–002]

Take notice that on July 12, 2004, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a refund report in compliance with the Commission's order issued May 27, 2004 in Docket No. ER03–861–000.

Entergy Operating Companies states that it has served upon all impacted customers and their respective states commissions.

Comment Date: 5 p.m. eastern time on August 2, 2004.

10. Tucson Electric Power Company and UNS Electric, Inc.

[Docket Nos. ER04–460–002]

Take notice that on July 14, 2004, Tucson Electric Power Company (Tucson Electric) and UNS Electric, Inc. (UNS Electric) submitted revised tariff sheets in compliance with the Commission's ''Order Accepting in Part, Rejecting in Part, and Modifying in Part Tariff Sheets Modifying Pro Forma Standard Large Generator Interconnection Procedures and Standard Large Generator Interconnection Agreement'' issued on June 4, 2004, in Docket Nos. ER04–460–000 and 001. Tucson Electric and UNS Electric request an effective date of January 20, 2004.

Comment Date: 5 p.m. eastern time on August 4, 2004.

11. Praxair Plainfield, Inc.

[Docket No. ER04–635–001]

Take notice that on July 13, 2004, Praxair Plainfield, Inc. (Plainfield) filed an amendment to its pending application requesting acceptance of its proposed Market-Based Rate Tariff (Tariff), waiver of certain regulations, and blanket approvals filed on March 10, 2004, in Docket No. ER04–635–000. Plainfield states that the Tariff would authorize Plainfield, inter alia, to engage in wholesale sales of energy, capacity, and ancillary services, as well as firm transmission rights to eligible customers at market-based rates, and to reassign transmission capacity rights at negotiated rates.

Comment Date: 5 p.m. eastern time on August 3, 2004.

12. Alabama Power Company

[Docket No. ER04–692–000]

Take notice that on July 12, 2004, Alabama Power Company (APC), filed request for withdrawal of its March 31, 2004, filing of Revision No. 9 to Rate Schedule REA–1 of APC's FERC Electric Tariff, Original Volume No. 1, to be effective July 12, 2004.

Comment Date: 5 p.m. eastern time on August 2, 2004.

13. Southern Company Services, Inc.

[Docket No. ER04–953–000]

Take notice that on July 8, 2004, Southern Company Services, Inc. (SCS), on behalf of Georgia Power Company (GPC), filed with the Commission a clarification of its June 23, 2004, Notice of Cancellation of the Interconnection Agreement between Southern Power Company and GPC, Service Agreement No. 459 under Southern Companies' Open Access Transmission Tariff, Fourth Revised Volume No. 5.

Comment Date: July 29, 2004.

14. Mid-Continent Area Power Pool

[Docket No. ER04–960–001]

Take notice that on July 13, 2004, Mid-Continent Area Power Pool (MAPP) submitted Second Revised Sheet No. 18 to MAPP's FERC Electric Tariff, 1st Revised Volume No. 1. MAPP states that the revised sheet was inadvertently omitted from its June 25, 2004, filing in Docket No. ER04–960–001.

MAPP states that a copy of the filing has been served on all MAPP members, customers under Schedule F, and the state commissions in the MAPP region.

Comment Date: 5 p.m. eastern time on August 3, 2004.

15. New England Power Pool

[Docket No. ER04–1005–000]

Take notice that on July 12, 2004, the New England Power Pool (NEPOOL) Participants Committee filed a revision to section 2.9(d) of NEPOOL Market Rule 1, clarifying the procedures to be used when correcting Day-Ahead Energy Market results. NEPOOL requests an effective date of September 10, 2004.

The NEPOOL Participants Committee states that copies of the filing were sent to NEPOOL Participants and the New England State governors and regulatory commissions.

Comment Date: 5 p.m. eastern time on August 2, 2004.

16. Rochester Gas and Electric Corporation

[Docket No. ER04–1006–000]

Take notice that on July 12, 2004, Rochester Gas and Electric Corporation (RG&E) tendered for filing with the Commission an Executed Assignment and Assumption Agreement between Constellation Generation Group, LLC and R.E. Ginna Nuclear Power Plant, LLC, by which Constellation assigns, and Ginna assumes, Constellation's right, title and interest in and to the Interconnection Agreement between RG&E and Constellation, and a First Amendment to the Interconnection Agreement between RG&E and Ginna. RG&E requests an effective date of June 10, 2004.

RG&E states that this filing has been served upon Ginna, the New York State Public Service Commission, and the New York Independent System Operator, Inc.

Comment Date: 5 p.m. eastern time on August 2, 2004.

17. Southern California Edison Company

[Docket No. ER04–1011–000]

Take notice that on July 13, 2004, Southern California Edison Company (SCE) submitted for filing revised sheets that reflect a proposed increase in the rate for scheduling and dispatching (S&D) services as embodied in SCE's agreements with the following entities:

Entity	Rate schedule FERC No.
1. Arizona Public Service Company	348
2. Imperial Irrigation District	268
3. Metropolitan Water District of Southern California	292
4. M–S–R Public Power Agency	339
5. Pacific Gas and Electric Company	256, 318

SCE states that each of the Agreements provides that the rate for S&D services will be redetermined annually. SCE proposes an updated S&D rate of $101.61 per transaction. SCE is requesting an effective date of September 10, 2004.

SCE states that copies of the filing were served upon the Public Utilities Commission of the State of California and SCE's jurisdictional customers listed above.

Comment Date: 5 p.m. eastern time on August 4, 2004.

18. PacifiCorp

[Docket No. ER04–1012–000]

Take notice that on July 13, 2004, PacifiCorp submitted Revised Appendices A, B, and C to the Amended and Restated Transmission Service and Operating Agreement with Utah Municipal Power Agency (UMPA) designated as First Revised Sheet Nos. 45 through 49 to PacifiCorp's First Revised FERC Rate Schedule Nos. 279, 289, 290, 291, 292 and 305. In addition, PacifiCorp submitted Notices of Cancellation of Rate Schedule Nos. 287 and 288 terminating the Mother Earth Interconnection Agreements with the City of Provo, Utah and UMPA.

PacifiCorp states that copies of this filing were supplied to the Public Utility Commission of Oregon, the Washington Utilities and Transportation Commission, and UMPA.

Comment Date: 5 p.m. eastern time on August 3, 2004.

19. Wheelabrator Westchester, L.P.

[Docket Nos. ER04–1013–000 and ER98–3030–002]

Take notice that on July 12, 2004, Wheelabrator Westchester, L.P. (Westchester) tendered for filing with the Commission (1) a triennial market power analysis; (2) a revised market-based rate tariff to incorporate the Market Behavior Rules adopted by the Commission in Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 105 FERC ¶ 61,218 (2003); and (3) a Notice of Succession reflecting the fact that on May 25, 2001, Wheelabrator Westchester, L.P. changed its name from Westchester RESCO Co., L.P.

Westchester states that it has served a copy of this filing on the Commission's official service list in Docket No. ER04–98–3030.

Comment Date: 5 p.m. eastern time on August 3, 2004.

20. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–1015–000]

Take notice that on July 14, 2004, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted an Interconnection and Operating Agreement among Crownbutte Wind Power LLC, the Midwest ISO and Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. designated as Original Service Agreement No. 1398 to Midwest ISO's FERC Electric Tariff, Second Revised Volume No. 1. Midwest ISO requests an effective date of July 8, 2004.

Midwest ISO states that a copy of this filing was served on all parties.

Comment Date: 5 p.m. eastern time on August 4, 2004.

21. Kansas Gas & Electric Company

[Docket No. ER04–1016–000]

Take notice that on July 14, 2004, Kansas Gas & Electric Company (KGE) submitted 4th Revised Sheet No. 15 to KGE's Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Westar Energy, Inc., under Service Schedule M to Rate Schedule 93 for the period from June 1, 2004, through May 31, 2005. KGE requests an effective date of June 1, 2004.

KGE states that a copy of this filing has been served upon the Kansas Corporation Commission.

Comment Date: 5 p.m. eastern time on August 4, 2004.

22. San Diego Gas & Electric Company

[Docket No. ER04–1017–000]

Take notice that on July 14, 2004, San Diego Gas & Electric Company (SDG&E) submitted revisions to its Transmission Owner Tariff, FERC Electric Tariff, Original Volume No. 11 (TO Tariff), to make ministerial changes regarding the term ''Reliability Services,'' to incorporate and provide for pass through to its customers reallocation of Must Offer Obligation/Minimum Load Compensation Cost related charges from the California Independent System Operator (CAISO), and to seek an interim increase in Reliability Services rates to address unexpected under-collections and anticipated year 2005 forecast increases. SDG&E requests an effective date of July 14, 2004, for the ministerial changes, an effective date as early as July 17, 2004, for the Must Offer Obligation/Minimum Load Compensation Costs related charges, and an effective date of October 1, 2004, for the Reliability Services rates increase.

SDG&E states that copies of the filing have been served on the California Public Utilities Commission and the CAISO.

Comment Date: 5 p.m. eastern time on August 4, 2004.

23. American Electric Power Service Corporation

[Docket No. ER04–1018–000]

Take notice that on July 14, 2004, American Electric Power Service Corporation (AEPSC) on behalf of Ohio Power Company (OPC) and Columbus Southern Power Co (CSP) has submitted (1) a Facilities, Interconnection, Operations and Maintenance Agreement between OPC and the Village of Woodsfield (Woodsfield) dated February 18, 2004, and (2) a Facility Construction, Operations, Maintenance and Repair Agreement between OPCo, CSP and American Municipal Power—Ohio (AMP-Ohio) dated April 16, 2004, consisting of a master agreement and four Facility Requests marked as Exhibit A No.1 through Exhibit A No. 4. AEPSC requests an effective date of July 1, 2004.

AEPSC states that a copy of the filing was served upon the Parties and the State utility regulatory commission of Ohio.

Comment Date: 5 p.m. eastern time on August 4, 2004.

24. Florida Power & Light Company

[Docket No. ER04–1019–000]

Take notice that on July 14, 2004, Florida Power & Light Company (FPL) submitted 2nd Revised Service Agreement No. 194 to FERC Electric Tariff, 2nd Revised Volume No. 6, the Interconnection & Operation Agreement between FPL and DeSoto County Generating Company, L.L.C. (DeSoto). FLP states that the revisions to Service Agreement No. 194 result from DeSoto's cancellation of its plans for a third generating unit. FPL requests an effective date of September 12, 2004.

FPL state that copies of the filing were served upon DeSoto.

Comment Date: 5 p.m. eastern time on August 4, 2004.

25. California Independent System Operator Corporation

[Docket No. ER04–1020–000]

Take notice that on July 14, 2004, the California Independent System Operator Corporation (ISO) submitted an amendment (Amendment No. 2) to revise the Metered Subsystem Aggregator Agreement between the ISO and Northern California Power Agency (NCPA). ISO states the purpose of Amendment No. 2 is to revise section 13.10, section 13.11, and schedule 1 of the agreement to (1) specify the treatment of Minimum Load Costs and to incorporate ISO Tariff defined terms, (2) to address the treatment of new elements of the ISO's Grid Management Charge, and (3) to include the new Silicon Valley Power ''Nortech-Northern Receiving Station'' Point of Interconnection.

The ISO states that this filing has been served on NCPA, the California Public Utilities Commission, and all entities on the official service lists for Docket No.

ER02–2321–000 and No. ER03–1119–000.

Comment Date: 5 p.m. eastern time on August 4, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1651 Filed 7–23–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF04–10–000]

Northwest Pipeline Corporation; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Capacity Replacement Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

July 19, 2004.

The staff of the Federal Energy Regulatory Commission (Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of Northwest Pipeline Corporation's (Northwest), a Williams Gas Pipeline company, proposed Capacity Replacement Project. This notice explains the scoping process that will be used to gather input from the public and interested agencies on the project. Your input will help us determine which issues need to be evaluated in the EIS. Please note that the scoping period for the project will close on August 18, 2004.

Comments may be submitted electronically, in written form, or verbally. In lieu of sending comments, we invite you to attend the public scoping meetings that have been scheduled in the project area. These meetings are scheduled for August 2, 2004, in Arlington, Washington; August 3, 2004, in Redmond, Washington; and August 4, 2004, in Yelm, Washington. Further instructions on how to submit comments and additional details of the public scoping meetings are provided in the public participation section of this notice.

The FERC will be the lead Federal agency for the preparation of the EIS. The document will satisfy the requirements of the National Environmental Policy Act (NEPA). The Washington Department of Ecology (Ecology) will be the lead State agency with responsibility for complying with the State Environmental Policy Act (SEPA) and has agreed to participate as a cooperating agency in the preparation of the EIS. This notice serves as Ecology's Determination of Significance and Request for Comments on the Scope of the EIS. The U.S. Army Corps of Engineers (COE) has also agreed to participate as a cooperating agency in the preparation of the EIS to satisfy its NEPA responsibilities under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act. It is the goal of the FERC, Ecology, and the COE to avoid duplication of effort and prepare a single EIS that can be used to satisfy their respective NEPA and SEPA responsibilities.

With this notice, we [1] are asking other Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated Northwest's proposal relative to their responsibilities. Agencies that would like to request cooperating status should follow the instructions for filing comments described later in this notice.

This notice is being sent to affected landowners; Federal, State, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a Northwest representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with Washington state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

Summary of the Proposed Project

Northwest proposes to construct approximately 81 miles of new 36-inch-diameter pipeline in four loops [2] located in Whatcom, Skagit, Snohomish, King, Pierce, and Thurston Counties, Washington. The new loops would be adjacent to Northwest's existing 26-inch- and 30-inch-diameter mainlines and primarily within Northwest's

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

[2] A loop is a segment of pipeline that is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

existing right-of-way. Mainline block valves and pig [3] launcher/receiver facilities would be installed along the loops. The Capacity Replacement Project would also involve the total net addition of 17,120 horsepower at five existing compressor stations (one each in Whatcom, Skagit, Snohomish, Lewis, and Clark Counties, Washington). A general overview of the major project facilities is shown on figure 1 in appendix 1.[4]

The purpose of the project is to replace the delivery capacity of Northwest's existing 26-inch-diameter mainline within a 3-year timeframe established by the U.S. Department of Transportation under a Corrective Action Order. Once the new loops are installed, Northwest would disconnect the entire 26-inch-diameter pipeline and abandon [5] the system in place.

The Capacity Replacement Project is scheduled to be in service by November 1, 2006. Northwest is requesting approval to begin compressor station work in March 2006 and pipeline construction in May 2006. The compressor station modifications would take a maximum of 7 months; pipeline construction is estimated to take approximately 5 months.

Land Requirements for Construction

Construction of Northwest's proposed pipeline facilities would require about 929.6 acres of land, of which 733.9 acres would be within Northwest's existing maintained right-of-way and 195.7 acres would be new temporary disturbance. The typical construction right-of-way for the pipeline would be 95 feet wide, consisting of Northwest's existing 75-foot-wide maintained right-of-way and 20 feet of new temporary workspace. Additional right-of-way width and temporary extra workspace would be required at certain feature crossings and areas requiring topsoil segregation and special construction techniques.

The pipeline loops would be generally installed within Northwest's existing 75-foot-wide right-of-way using a standard 20-foot offset from the existing 30-inch-diameter mainline. At certain locations (*e.g.,* utility and road crossings), variations from this standard offset would be needed. Most variations would still be located within the existing right-of-way but offset at slightly wider or narrower intervals. In some areas, the proposed pipeline would deviate from the existing right-of-way due to topographic or resource/land use constraints. In certain areas where encroachment, development, or other limitations confine available workspace to the existing right-of-way, Northwest would remove the existing 26-inch-diameter mainline and install the new 36-inch-diameter pipeline loop in the same ditch.

Northwest currently retains a 75-foot-wide permanent right-of-way for the majority of its existing pipelines. Because the majority of the new pipeline loops would be installed within the existing 75-foot-wide right-of-way, no additional permanent right-of-way would be required. However, in some locations, Northwest retains only a 60-foot-wide permanent right-of-way. In these areas, Northwest may request additional operational right-of-way to bring the easement up to 75 feet if space is available and the landowner is willing to expand the easement. If the proposed pipeline loop would deviate from the existing right-of-way, Northwest would typically retain a 75-foot-wide new permanent right-of-way (37.5 feet on either side of the pipeline).

The modifications to the existing compressor stations would be constructed within the existing facility sites, except for a 1.6-acre extra workspace that would be temporarily needed at the Sumas Compressor Station and a 1.0-acre extra workspace that would be temporarily needed at the Chehalis Compressor Station.

Mainline block valves would be installed within the permanent right-of-way at the beginning and end points of each loop and at intermediate locations as necessary. The majority of the proposed mainline valves would be collocated with existing mainline valves and other aboveground facilities. Pig launchers and receivers would be installed within the permanent right-of-way at the beginning and end points of each loop. The majority of the proposed pig launchers and receivers would be collocated with existing aboveground facilities.

The EIS Process

NEPA requires the FERC to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. Ecology, as the lead State agency, is required to consider the same potential impacts under SEPA. The EIS we are preparing will give both the FERC and Ecology the information needed to do that.

Although no formal application has been filed, we have already initiated our NEPA review under the FERC's NEPA Pre-Filing Process. The purpose of the Pre-Filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. Ecology has agreed to conduct its SEPA review in conjunction with the NEPA Pre-Filing Process. A diagram depicting the environmental review process for the project is attached to this notice as appendix 2.

As part of our NEPA Pre-Filing Process review, representatives from the FERC participated in public open houses sponsored by Northwest in the project area on June 28–30 and July 12–15, 2004, to explain the environmental review process to interested stakeholders and take comments about the project. On July 1, 2004, the FERC staff conducted an interagency scoping meeting in the project area to solicit comments and concerns about the project from jurisdictional agencies. Agencies present at the meeting included the COE, NOAA Fisheries, Fort Lewis Army Base, Ecology, the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, and the Washington Utilities and Transportation Commission. The Lummi Nation was also represented.

By this notice, we are formally announcing our preparation of the EIS and requesting additional agency and public comments to help us focus the analysis in the EIS on the potentially significant environmental issues related to the proposed action. If you provided comments at the interagency scoping meeting discussed above, you do not need to resubmit the same comments.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, State, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all timely comments on the draft EIS and revise the document, as necessary, before issuing a final EIS.

[3] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

[4] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Internet Web site (*http://www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference Room at (202) 502–8371. For instructions on connecting to eLibrary, refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Northwest via e-mail at *nwpcapacityreplacement@williams.com* or by calling 1–866–623–4336.

[5] In utility law, the term abandonment refers to government authorization for a utility to cease provision of a particular service and/or to shut down a particular facility.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified a number of issues and alternatives that we think deserve attention based on a preliminary review of the proposed facilities, the environmental information provided by Northwest, and the scoping comments received to date. This preliminary list of issues and alternatives may be changed based on your comments and our additional analysis.

- Geology and Soils:
  —Assessment of potential geological hazards.
  —Erosion and sedimentation control.
  —Right-of-way restoration.
- Water Resources:
  —Impact on groundwater and surface water supplies.
  —Impact on wetland hydrology and assessment of wetland mitigation options.
  —Effect of pipeline crossings on perennial and intermittent waterbodies.
  —Assessment of special measures for the crossing of Saar Creek, North Fork Nooksack River, Pilchuck Creek, North Fork Stillaguamish River, South Fork Stillaguamish River, and the Nisqually River.
  —Assessment of contingency plans for frac-outs associated with horizontal directional drills.
  —Assessment of alternative waterbody crossing methods.
  —Effect of streambottom scour on the new and existing pipelines.
  —Assessment of hydrostatic test water sources and discharge locations.
- Fish, Wildlife, and Vegetation:
  —Effect on coldwater and sensitive fisheries.
  —Effect on wildlife resources and their habitat.
  —Effect on migratory birds.
  —Assessment of construction time window restrictions.
  —Effect on riparian vegetation.
  —Assessment of measures to successfully revegetate the right-of-way.
- Special Status Species:
  —Potential effect on federally listed or proposed species (including the northern spotted owl).
  —Assessment of mitigation for impacts on the northern spotted owl and its designated critical habitat.
  —Potential effect on State-listed sensitive species.
- Cultural Resources:
  —Assessment of survey methodologies.
  —Effect on historic and prehistoric sites.
  —Native American and tribal concerns, including impacts on traditional cultural properties and fishing rights.
- Land Use, Recreation and Special Interest Areas, and Visual Resources:
  —Impacts on 16.4 miles of agricultural land.
  —Impacts on approximately 182 residences within 50 feet of the construction work area.
  —Impacts on Fort Lewis.
  —Evaluation of the project's consistency with regional and local land use management plans, policies, and ordinances, including the Shoreline Management Act and Shoreline Master Programs.
  —Impacts associated with contaminated sites.
  —Visual impacts.
- Socioeconomics:
  —Effects on transportation and traffic.
  —Effects of construction workforce demands on public services and temporary housing.
- Air Quality and Noise:
  —Effects on local air quality and noise environment from construction and operation of the proposed facilities.
- Reliability and Safety:
  —Assessment of hazards associated with natural gas pipelines.
- Alternatives:
  —Assessment of the potential to add compression to eliminate or minimize pipeline construction.
  —Assessment of the potential to change the locations of the pipeline loops to lessen or avoid impacts on residences and various resource and special interest areas.
  —Identification of route variations and/or non-standard parallel offsets to lessen or avoid impacts.
  —Assessment of returning the existing 26-inch-diameter pipeline to permanent service to eliminate or minimize new pipeline construction.
  —Evaluation of removing the 26-inch-diameter pipeline and installing the 36-inch-diameter pipeline loops in the same ditch for the entire project.
- Cumulative Impact:
  —Assessment of the effect of the proposed project when combined with other past, present, or future actions in the same region.

Public Participation

You can make a difference by providing us with your specific comments or concerns about Northwest's proposal. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To expedite our receipt and consideration of your comments, the Commission strongly encourages electronic submission of any comments on this project. *See* title 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Before you can submit comments you will need to create a free account by clicking on ''Sign-up'' under ''New User.'' You will be asked to select the type of submission you are making. This type of submission is considered a ''Comment on Filing.'' Your comments must be submitted electronically by August 18, 2004.

If you wish to mail comments, please mail your comments so that they will be received in Washington, DC on or before August 18, 2004, and carefully follow these instructions:

Send an original and two copies of your letter to:

- Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Label one copy of your comments for the attention of the Gas Branch 2, DG2E; and
- Reference Docket No. PF04–10–000 on the original and both copies.

The public scoping meetings, which will be joint NEPA/SEPA scoping meetings, are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the EIS. A transcript of the meetings will be generated so that your comments will be accurately recorded. All meetings will begin at 7 p.m. (p.s.t.), and are scheduled as follows:

Date	Location
Monday, August 2, 2004	Hawthorn Inn & Suites, 16710 Smokey Point Blvd., Arlington, WA 98223; (360) 657–0500.
Tuesday, August 3, 2004	Marriott Redmond Town Center, 7401 164th Avenue, NE., Redmond, WA 98052; (425) 498–4120.
Wednesday, August 4, 2004	Prairie Hotel, 700 Prairie Park Lane, Yelm, WA 98597; (360) 458–8300.

Everyone who responds to this notice or provides comments throughout the EIS process will be retained on our mailing list. If you do not want to send comments at this time but still want to stay informed and receive copies of the draft and final EISs, you must return the Mailing List Retention Form (appendix 3). If you do not send comments or return the Mailing List Retention Form asking to remain on the mailing list, you will be taken off the mailing list.

Once Northwest formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''eFiling'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.*, PFO4–10). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *http://www.FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, Northwest has established an Internet Web site for its project at *http://www.williams.com/williamsinwashington/*. The Web site includes a description of the project and an overview map of the proposed loops. Northwest will continue to update its Web site with information about the project.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1649 Filed 7–23–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7792–2]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: The U.S. Environmental Protection Agency is proposing to enter into a *de minimis* settlement pursuant to section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(g)(4). This proposed settlement is intended to resolve the liabilities under CERCLA of twenty-six (26) *de minimis* parties for response costs incurred and to be incurred at the Malvern TCE Superfund Site, East Whiteland and Charlestown Townships, Chester County, Pennsylvania.

DATES: Comments must be provided on or before August 25, 2004.

ADDRESSES: Comments should be addressed to Suzanne Canning, Docket Clerk, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and should refer to the Malvern TCE Superfund Site, East Whiteland Township, Chester County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Joan A. Johnson (3RC41), 215/814–2619, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029.

SUPPLEMENTARY INFORMATION: Notice of *de minimis* settlement: In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 122(i)(1), notice is hereby given of a proposed administrative settlement concerning the Malvern TCE Superfund Site, in East Whiteland and Charlestown Townships, Chester County, Pennsylvania. The administrative settlement is subject to review by the public pursuant to this Notice. The proposed agreement has been reviewed and approved by the United States Department of Justice. The following *de minimis* parties have executed signature pages, consenting to participate in this settlement: Allister Manufacturing Corporation/C.P. Allstar Corporation/Relm Wireless Corporation; Athena Controls, Inc.; Ametek, Inc.; Airline Hydraulics Corporation; BFI Waste Service of Pennsylvania, LLC/BFI Waste Systems of North America, Inc./Browning-Ferris Industries a/k/a Allied Waste; Camdel Metals Corporation; Carvel Hall, Inc./Syratech Corporation/CHI International, Inc./Towle Manufacturing Company; CK Systematics Inc./Systematics, Inc.; E. Frank Hopkins Company, Inc.; Fabric Development, Inc.; Fergusson-McKenna Supply, Inc.; Fraser-Volpe Corporation; Gulf & Western Industries, Inc./Collins & Aikman Products Co./Heartland Industrial Partners, L.P.; High Energy Corporation; Kosempel Manufacturing Company; Leeds & Northrup Company/SPX Corporation; Matheson Instruments, Inc./Matheson Tri-Gas, Inc.; Model Finishing Company, Inc.; Narco Avionics, Inc.; Oxford Metal Products Co., Inc.; Philco-Ford Corporation/Loral Space & Communications, Ltd./Space Systems/Loral, Inc./Ford Motor Company, Inc.; Princo Instruments, Inc.; Prodelin, Inc./

M/A-COM, Inc.; Sermetal, Inc./ Sermetech International Incorporated/ Teleflex Incorporated; Solid State Scientific, Inc./American Financial Group, Inc.; Xynatech Inc., (NM Corp)/ Xynatech Inc., (PA Corp)/National Metalcrafters (PA Corp)/Xynatech Manufacturing (PA Corp).

The twenty-six (26) settling parties collectively have agreed to pay $996,210.00 to the Hazardous Substances Trust Fund subject to the contingency that EPA may elect not to complete the settlement if comments received from the public during this comment period disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Monies collected from the *de minimis* parties will be applied towards past and future response costs incurred by EPA or PRPs performing work at or in connection with the Site. The settlement includes a premium payment equal to either 125% or 225% of the estimated future response costs incurred in connection with the Site, to be assessed as follows: 125% assessed for those parties that have not received a prior *de minimis* settlement offer from EPA; and 225% for those parties that received a prior settlement offer from EPA but declined to participate in a prior settlement. The additional premium assessed for those parties that received a prior settlement offer from EPA but declined to participate in a prior settlement, was intended to mitigate any financial gain the parties might have obtained by not participating in the first settlement. The settlement also includes a reservation of rights by EPA, pursuant to which EPA reserves its rights to seek recovery from the settling *de minimis* parties of response costs incurred by EPA in connection with the Site to the extent such costs exceed $31.2 million.

EPA is entering into this agreement under the authority of section 122(g) of CERCLA, 42 U.S.C. 9622(g). Section 122(g) authorizes early settlements with *de minimis* parties to allow them to resolve their liabilities at Superfund Sites without incurring substantial transaction costs. Under this authority, EPA proposes to settle with potentially responsible parties in connection with the Malvern TCE Superfund Site, each of whom is responsible for .75 percent or less of the volume of hazardous substance sent to the Site. As part of this *de minimis* settlement, EPA will grant the twenty-five settling *de minimis* parties a covenant not to sue or take administrative action against any of the twenty-five settling PRPs for reimbursement of response costs or injunctive relief pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, or for injunctive relief pursuant to section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973, with regard to the Site. EPA initially issued this settlement offer to the *de minimis* parties on August 18, 2003. This offer was subsequently revised and reissued on October 20, 2003.

The Environmental Protection Agency will receive written comments relating to this settlement for thirty (30) days from the date of publication of this notice. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. Commenters may request an opportunity for a public meeting in the affected area in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d). A copy of the proposed Administrative Order on Consent can be obtained from Joan A. Johnson, U.S. Environmental Protection Agency, Region III, Office of Regional Counsel, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, or by contacting Joan A. Johnson at (215) 814–2619.

Dated: July 19, 2004.

Richard J. Kampf,

Acting Regional Administrator, Region III.

[FR Doc. 04–16945 Filed 7–23–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket 03–123; DA 04–2062]

Petition for Declaratory Ruling Filed Regarding Provision of Video Relay Service (VRS) Video Mail

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission addresses a *Petition for Declaratory Ruling* filed on March 31, 2004, by Hands On Video Relay Service, Inc. (HOVRS), requesting that the Commission declare that the provision of Video VRS Mail to deaf and hard of hearing persons is eligible for compensation from the Interstate TRS Fund.

DATES: Comments are due on or before August 15, 2004. Reply comments are due on or before August 30, 2004.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Cheryl King, (202) 418–2284 (voice), (202) 418–0416 (TTY), or e-mail *cheryl.king@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Public Notice,* DA 04–2062, released July 9, 2004. Interested parties may file comments in this proceeding on or before August 15, 2004 and reply comments may be filed on or before August 30, 2004. When filing comments, please reference CG Docket No. 03–123. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Services mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal

Communications Commission, 445 12th Street, SW., Room TW–B204 Washington, DC 20554.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted, along with three paper copies, to: Dana Jackson, Consumer & Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room 6C–410, Washington DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, CG Docket No. 03–123, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are subject to disclosure.

Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this *Public Notice* may be purchased from the Commission's duplicating contractor, BCPI, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail at *http://www.bcpiweb.com.*

To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). This *Public Notice* can also be downloaded in Word and Portable Document Format at *http://www.fcc.gov/cgb.dro.*

Synopsis: As background, TRS, as mandated by Title IV of the Americans with Disabilities Act of 1990, makes the telephone system accessible to individuals with hearing or speech disabilities. *See* 47 U.S.C. 225. This is accomplished through TRS facilities that are staffed by specially trained CAs using special technology. The CA relays conversations between persons using various types of assistive communication devices and persons who do not require such assistive devices. VRS—Video Relay Service—is ''a telecommunications relay service that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users with video equipment. The video link allows the [communications assistant] to view and interpret the party's signed conversation and relay the conversation back and forth with a voice caller.'' 47 CFR 64.601(17). According to HOVRS, Video VRS Mail is a means by which hearing persons can have a VRS communications assistant send a message in video format (American Sign Language) to a deaf or hard of hearing VRS user who is not available to answer the call, so that the VRS user can retrieve the video message at a later time.

Federal Communications Commission.

P. June Taylor,

Chief of Staff, Consumer & Governmental Affairs Bureau.

[FR Doc. 04–16974 Filed 7–23–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that, at 3:30 p.m. on Monday, July 19, 2004, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director Thomas J. Curry, seconded by Vice Chairman John M. Reich, concurred in by Director James E. Gilleran (Director, Office of Thrift Supervision), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice of the meeting earlier than July 13, 2004, was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsection (c)(2) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: July 20, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E4–1642 Filed 7–23–04; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties can review or obtain copy of the agreement at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 201159.

Title: Memorandum of Settlement of Local Conditions in the Port of New York and New Jersey.

Parties: New York Shipping Association, Inc. and the International Longshoremen's Association.

Filing Parties: Andre Mazzola; Gleason & Mathews, P.C.; 26 Broadway, 17 Floor; New York, New York 10004; and William M. Spelman; Lambos &Junge; 29 Broadway, 9th Floor; New York, New York 10006.

Synopsis: The agreement establishes local conditions for the Port of New York-New Jersey under the ILA Master Contract.

Dated: July 20, 2004.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 04–16884 Filed 7–23–04; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part

225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets of the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 20, 2004.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Maries County Bancorp, Inc., Vienna, Missouri; to acquire additional voting shares, for a total of 9.02 percent, of Branson Bancshares, Inc., Branson, Missouri, and thereby indirectly acquire voting shares of Branson Bank, Branson, Missouri.

Board of Governors of the Federal Reserve System, July 21, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–16948 Filed 7–23–04; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–04–CC]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of this request, call the CDC Reports Clearance Officer at (404) 498–1210 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Understanding Family-based Detection as a Strategy for Early Diagnosis of Hemochromatosis—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Hemochromatosis is a disease that occurs as a result of excess iron accumulation in the tissues and organs. The majority of Hemochromatosis cases are due to HFE gene mutations. Early Hemochromatosis symptoms are nonspecific and are often overlooked by physicians or mistaken for other conditions. Fortunately, Hemochromatosis can be detected with simple blood tests. When treatment by therapeutic phlebotomy is instituted early in the course of the disease, the many severe complications associated with Hemochromatosis (*e.g.* cirrhosis of the liver, liver cancer, cardiomyopathy, and heart failure) can be effectively prevented.

Hemochromatosis is a genetic disease, and blood relatives of Hemochromatosis patients are at increased risk. The public health strategy for early detection of hereditary Hemochromatosis is making patient family members aware of their increased risk and encouraging them to seek voluntary diagnostic testing (''family-based detection''). CDC wants to evaluate family-based detection as a strategy to identify people with Hemochromatosis. The proposed research project will examine the effectiveness of and barriers to the use of family-based detection as a public health strategy to reduce morbidity and mortality from genetic diseases, and in particular, Hemochromatosis.

To understand the effectiveness of family-based detection for Hemochromatosis the following will be evaluated:

- Barriers and motivators to family-based detection as a strategy for early diagnosis of Hemochromatosis. (Early detection facilitates early treatment to slow the course of disease.)
- How physicians communicate with patients about the importance of family-based detection and the need for patients to encourage biological siblings to seek testing.
- Factors that foster good communication among biological siblings about the importance of seeking medical testing by those at increased risk of Hemochromatosis.
- Factors that affect the willingness of biological siblings to take action to seek out and receive testing for Hemochromatosis.
- Information and key messages that motivate patients to advise their biological siblings about their increased risk for Hemochromatosis and need for diagnostic testing.
- How physicians use medical histories to identify people who should be tested because they have a relative with Hemochromatosis.

The proposed research to be undertaken by CDC will incorporate several types of qualitative data collection: structured one-on-one interviews, triads (small focus groups) and traditional focus groups. Subjects will include Hemochromatosis patients, biological siblings of patients, and physicians. Topics to be explored with each of the three subject groups include the knowledge, attitudes, perceptions, and behaviors related to family-based detection.

Patients will be recruited in Boston and Chicago from the following places (where Hemochromatosis patients often undergo treatment by therapeutic phlebotomy):

- Blood banks;
- Hospital laboratories;
- Other health care provider facilities.

Siblings will be recruited either through the patients or by self-referral. Health care providers will be recruited through publicly available lists of physicians, or recommendations from project staff, patients, biological siblings, blood banks, hospital laboratories, Hemochromatosis organizations, and health care providers knowledgeable about Hemochromatosis. Information about the study will be available on the CDC Web site. Hemochromatosis

organizations will be invited to notify their members about this research. There are no costs to respondents. Of the 250 individuals screened through a telephone interview, 15 will be selected for individual interviews, 30 will be selected for triads and 80 will be selected for participation in focus groups. The estimated annualized burden is 311 hours.

Annualized Burden Table:

Respondents	Number of respondents	Number of responses per respondent	Average response per respondent
Telephone call screener	250	1	6/60
Individual interviews (Physicians)	18	1	2
Individual interviews (Patients and siblings)	15	1	[1] 2
Triads	30	1	[2] 2
Focus Groups	80	1	[3] 2

[1] Includes interview and exit survey.
[2] Includes triad and exit survey.
[3] Includes focus group and exit survey.

Dated: July 19, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–16910 Filed 7–23–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–04–0Z]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Accommodation of Noise-Exposed, Hearing-Impaired Workers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background

CDC, National Institute for Occupational Safety and Health's mission is to promote safety and health at work for all people through research and prevention. This study will evaluate the effectiveness of an evaluation and intervention protocol that can be used to accommodate the special needs of noise-exposed, hearing-impaired workers so that they can continue to perform their jobs safely while preventing additional hearing loss. Three General Motors (GM) manufacturing plants have agreed to participate in the field-testing phase of this project as part of the Memorandum of Understanding between NIOSH, the General Motors Corporation and the International Union, United Automotive, Aerospace and Agricultural Implement Workers of America (UAW) which was signed on October 23, 2000. Beginning in 2002 and continuing into 2003, the field study proposal was developed in consultation with representatives from GM and the UAW from each of the three plants. The field study is scheduled to begin during 2004 and to conclude during 2005.

One hundred noise-exposed, hearing-impaired workers will be enrolled in the study. Participants will complete the necessary release of information forms, receive a clinical hearing evaluation and case history interview by a certified audiologist to identify the type of hearing protection most appropriate for them, and be provided with this protector for use in their actual job. As part of the impact and evaluation component of this project, each study participant will fill out a 36-item pre-intervention Hearing Protection Device (HPD) Questionnaire at the time he or she enrolls in the study. The HPD Questionnaire is an expansion of a previously approved HPD questionnaire (OMB No. 0920–0552) which was developed in 1999 by NIOSH researchers. The post-intervention HPD Questionnaire will be mailed to each participant along with the 7-item Post-Intervention Questionnaire following a one-year trial with the study HPD. NIOSH researchers will use this information to assess the success of the evaluation and HPD selection protocol, and make recommendations to hearing health professionals and hearing conservation program managers, regarding the auditory management of noise-exposed, hearing-impaired workers. This request is for 2 years. The estimated annualized burden is 88 hours; there are no costs to respondents.

ANNUALIZED BURDEN TABLE

Respondents	Number of respondents	Number of responses per respondents	Average burden per response (in hrs.)
Request and Authorization for Release of Information from GM	50	1	5/60
Request and Authorization for Release of Information from Clinic	50	1	5/60
Contact Information Card	50	1	2/60
Pre-Intervention HPD Questionnaire	50	1	15/60
Post-Intervention HPD Questionnaire	50	1	15/60
Case History Questionnaire	50	1	10/60
Telephone Follow-Up Call	50	6	7/60
Post-Intervention Questionnaire	50	1	10/60

Dated: July 19, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–16911 Filed 7–23–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Head Start Program Information Report.

OMB No.: 0980–0017.

Description: The Head Start Bureau is proposing to renew authority to collect information using the Head Start Program Information Report (PIR). The PIR provides information about Head Start and Early Head Start services received by the children and families enrolled in Head Start programs. The information collected in the PIR is used to inform the public about these programs and to make periodic reports to Congress about the status of children in Head Start programs as required by the Head Start statute.

Respondents: Head Start and Early Head Start program grants recipients.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
45 CFR Part 1301	2690	1	4	10,760

Estimated Total Annual Burden Hours: 10,760.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *grjohnson@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of the automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: July 19, 2004.

Robert Sargis,

Reports Clearance, Officer.

[FR Doc. 04–16885 Filed 7–23–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Schedule UDC: Itemized Undistributed Collections.

OMB No.: New Collection.

Description: Although State child support enforcement agencies successfully collect and distribute billions of dollars every fiscal year, a certain portion of the collections remain undistributed. In some instances collections remain undistributed relatively briefly, pending the resolution of an assortment of administrative or legal processes; in other instances collections remain undistributed indefinitely as a result of circumstances beyond the State's control.

State agencies have requested the ability to differentiate and report to the Office of Child Support Enforcement (OCSE) the nature of those collections. In addition, in its recent report, the Government Accounting Office recommended that OCSE conduct periodic reviews of undistributed collection data to ''* * * help improve the accuracy of the data.'' (Report GAO–04–377, March 19, 2004, ''Child Support Enforcement: Better Data and More Information on Undistributed Collections Are Needed''). This supporting schedule, which will be submitted quarterly as an attachment to Form OCSE–34A, the ''Quarterly Report of Collections,'' is being implemented to meet those requirements and will enable each state to differentiate and itemize its undistributed collections by category and age and will enable OCSE to review and analyze this information and to recommend management methodologies to reduce the undistributed collection balance.

Comments sent to the Office of Child Support Enforcement, both directly and in response to the **Federal Register** notice published October 8, 2003 (68 FR 58110, *et seq.*), provided many useful recommendations and suggestions to improve and clarify the wording of the instructions that accompany this form.

Respondents: State IV–D agencies administering the Child Support Enforcement Program under Title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Schedule UDC	54	4	4	864

Estimated Total Annual Burden Hours: 864.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *grjohnson@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collections should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF; E-mail address: *katherine_t._astrich@omb.eop.gov*.

Dated: July 19, 2004.

Robert Sargis,

Reports Clearance, Officer.

[FR Doc. 04–16886 Filed 7–26–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children (ACHDGDNC).

Dates and Times:

September 22, 2004, 9 a.m. to 5 p.m.

September 23, 2004, 9 a.m. to 5 p.m.

Place: Jurys Washington Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036. Phone: 202–483–6000. Fax: 202–328–3265. *http://www.jurysdoyle.com.*

Status: The meeting will be open to the public with attendance limited to space availability.

Purpose: The Advisory Committee provides advice and recommendations concerning the grants and projects authorized under the Heritable Disorders Program and technical information to develop policies and priorities for this program that will enhance the ability of the State and local health agencies to provide for newborn and child screening, counseling and health care services for newborns and children having or at risk for heritable disorders. Specifically, the Committee shall advise and guide the Secretary regarding the most appropriate application of universal newborn screening tests, technologies, policies, guidelines and programs for effectively reducing morbidity and mortality in newborns and children having or at risk for heritable disorders.

Agenda: The first day will be devoted to presentations on the following: A report from the American College of Medical Genetics, followed by a discussion; new and evolving technologies that State newborn screening programs may be using in the near future; and the status of tandem mass spectrometry in States and barriers to expansion with this technology. The second day will be devoted to presentations on analyses of the cost and benefit of newborn screening and the financing mechanisms for State newborn screening programs.

Proposed agenda items are subject to change as priorities indicate.

Time will be provided each day for public comment. Individuals who wish to provide public comment or who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the ACHDGDNC Executive Secretary, Michele A. Lloyd-Puryear, M.D., Ph.D. (contact information provided below).

Contact Person: Anyone interested in obtaining a roster of members or other relevant information should write or contact Michele A. Lloyd-Puryear, M.D., Ph.D., Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–1080. Information on the Advisory Committee is available at *http://mchb.hrsa.gov/programs/genetics/committee.*

Dated: July 16, 2004.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 04–16874 Filed 7–23–04; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Public Affairs; Submission for Emergency Processing for Ready for Kids Mascot Naming Contest

AGENCY: Public Affairs, DHS.

ACTION: Notice; request for comments.

SUMMARY: The Department of Homeland Security (DHS) will submit to OMB 1600–NEW information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS is seeking OMB approval by August 30, 2004. A copy of this ICR, with the applicable supporting documentation, may be obtained by calling the Department of Homeland Security, Yvonne Pollard at 202–692–4221 (this is not a toll free number).

ADDRESSES: Written comments and/or suggestions for the items contained in this notice should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Homeland Security, Office of Management and Budget, Room 10235, Washington, DC 20503, at 202–395–7316.

FOR FURTHER INFORMATION CONTACT: Lara Shane at 202–282–8010 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.13. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Contact listed. The Office of Management and Budget is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Public Affairs, Department of Homeland Security.

Title: Ready for Kids Mascot Naming Contest.

OMB Number: 1600–NEW.

Frequency: On occasion.

Affected Public: Individuals and households.

Estimated Number of Respondents: 500 respondents.

Estimated Time Per Respondent: 1.5 hour per response.

Total Burden Hours: 750.

Total Burden Cost: (*Capital/Startup*): none.

Total Burden Cost: (*Operating/Maintaining*): none.

Description: The Department of Homeland Security is launching an expansion of the Ready campaign, designed for children grades 4–8. The expansion of the Ready campaign is to conduct the ''name the mascot'' contest for naming the new Ready campaign mascot.

Dated: July 20, 2004.

Mark Emery,

Deputy Chief Information Officer.

[FR Doc. 04–16895 Filed 7–23–04; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Information Analysis and Infrastructure Protection Directorate; Submission for Emergency Processing for National Cyber Security Survey

AGENCY: Information Analysis and Infrastructure Protection, DHS.

ACTION: Notice; request for comments.

SUMMARY: The Department of Homeland Security (DHS) will submit to OMB 1630–NEW information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS is seeking OMB approval by August 30, 2004. A copy of this ICR, with the applicable supporting documentation, may be obtained by calling the Department of Homeland Security, Yvonne Pollard at 202–692–4221 (this is not a toll free number).

ADDRESSES: Written comments and/or suggestions for the items contained in this notice should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Homeland Security, Office of Management and Budget, Room 10235, Washington, DC 20503, at 202–395–7316.

FOR FURTHER INFORMATION CONTACT: John Roberts or Cathy Lockwood at 202–708–7000 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.13. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Contact listed. The Office of Management and Budget is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Information Analysis and Infrastructure Protection, Department of Homeland Security.

Title: National Cyber Security Survey.

OMB Number: 1630–NEW.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 3,900.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 1,950.

Total Burden Cost: (*Capital/Startup*): None.

Total Burden Cost: (*Operating/Maintaining*): None.

Description: The National Cyber Security Survey provides the ability to measure, within each of DHS' critical infrastructure sectors, cyber dependencies and process controls to providing the basis for tracking the progress in security in the nation's information infrastructure.

Dated: July 19, 2004.

Steve Cooper,

Chief Information Officer.

[FR Doc. 04–16896 Filed 7–23–04; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Border and Transportation Security Directorate; Submission for OMB Emergency Processing for United States Visitor and Immigrant Status Indicator Technology Program (US–VISIT) Exit Pilot Questionnaire

AGENCY: Border and Transportation Security Directorate, DHS.

ACTION: Notice, request for comments.

SUMMARY: The Department of Homeland Security (DHS) has submitted to OMB 1600–NEW information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS is seeking OMB approval by July 30, 2004. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Homeland Security, Yvonne Pollard at 202–692–4221 (this is not a toll free number).

ADDRESSES: Written comments and/or suggestions for the items contained in this notice should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Homeland Security, Office of Management Budget, Room 10235, Washington, DC 20503, 202–395–7316.

FOR FURTHER INFORMATION CONTACT: Steve Yonkers at 202–298–5200 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.13. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Act Contact listed. The Office of Management and Budget is particularly interested in comments which:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Border and Transportation Security Directorate, Department of Homeland Security.

Title: United States Visitor and Immigrant Status Indicator Technology Program (US–VISIT)—Exit Pilot Questionnaire.

OMB Number: 1600–NEW.

Frequency: On occasion.

Affected Public: Individuals or households, business or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 7,500.

Estimated Time per Respondent: 10 minutes.

Estimated Burden Hours: 1,275.

Total Burden Cost (*Capital/Startup*): none.

Total Burden Cost (*Operating/Maintaining*): none.

Description: The US–VISIT Exit Pilot Questionnaire provides travelers, transportation crew members and transportation carriers the opportunity to provide feedback on US–VISIT Exit program procedures.

Dated: July 19, 2004.

Steve Cooper,

Chief Information Officer.

[FR Doc. 04–16897 Filed 7–23–04; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–52]

Notice of Submission of Proposed Information Collection to OMB; Informed Consumer Choice Notice and Application for FHA Insured Mortgage

AGENCY: Office of the Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a request for renewal of the current approval to collect e information for the application for FHA mortgage insurance. The information collection will be changed to include the requirement for lenders to inform prospective FHA borrowers of comparative costs of FHA-insured mortgages vs. similar conventional mortgages. That requirement is currently approved under OMB control number 2502–0537 and will be consolidated under OMB control number 2502–0059.

DATES: *Comments Due Date:* August 25, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0059) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a survey instrument to obtain information from faith based and community organizations on their likelihood and success at applying for various funding programs. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Informed Consumer Choice Notice and Application for FHA Insured Mortgage.

OMB Approval Number: 2502–0059.

Form Numbers: HUD–92900–A, HUD–92900–B, HUD–92900–WS, HUD–92900–PUR, HUD–92561, HUD–92544.

Description of the Need for the Information and its Proposed Use: This is a request for renewal of the current approval to collect e information for the application for FHA mortgage insurance. The information collection will be changed to include the requirement for lenders to inform prospective FHA borrowers of comparative costs of FHA-insured mortgages vs. similar conventional mortgages. That requirement is currently approved under OMB control number 2502–0537 and will be consolidated under OMB control number 2502–0059.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	1,009,000	1		0.2423		244,550

Total Estimated Burden Hours: 1,009,000.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 20, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 04–16980 Filed 7–23–04; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–53]

Notice of Submission of Proposed Information Collection to OMB; Exigent Health and Safety Deficiency Correction Certification

AGENCY: Office of the Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Public Housing Agencies (PHAs) correct/mitigate exigent health and safety (EHS) deficiencies cited in property inspections conducted pursuant to HUD's Uniform Physical Condition Standards inspection protocol. Through the web-based template, PHAs will electronically certify that they have corrected/mitigated the EHS deficiencies.

DATES: *Comments Due Date*: August 25, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–NEW) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a survey instrument to obtain information from faith based and community organizations on their likelihood and success at applying for various funding programs. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Exigent Health and Safety Deficiency Correction Certification.

OMB Approval Number: 2577–NEW.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Public Housing Agencies (PHAs) correct/mitigate exigent health and safety (EHS) deficiencies cited in property inspections conducted pursuant to HUD's Uniform Physical Condition Standards inspection protocol. Through the web-based template, PHAs will electronically certify that they have corrected/mitigated the EHS deficiencies.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2,061	1		0.3		647

Total Estimated Burden Hours: 647.

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 20, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 04–16981 Filed 7–23–04; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Programmatic Statewide Red-Cockaded Woodpecker Safe Harbor Agreement, Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of permit application.

SUMMARY: This notice advises the public that the Louisiana Department of Wildlife and Fisheries (LDWF or Applicant) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). The permit application includes a proposed Safe Harbor Agreement (Agreement) for the endangered red-cockaded woodpecker, (*Picoides borealis*) (RCW), for a period of 99 years. If approved, the Agreement would allow the Applicant to issue Certificates of Inclusion (CI) throughout the State of Louisiana to eligible non-Federal landowners that complete an approved Safe Harbor Management Agreement (SHMA).

We announce the opening of a 30-day comment period and request comments from the public on the Applicant's permit application, the accompanying proposed Agreement, and the supporting Environmental Assessment. The Environmental Assessment identifies and describes several alternatives. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public, subject to the requirements of the Privacy Act and Freedom of Information Act. For further information and instructions on reviewing and commenting on this application, see the **ADDRESSES** section, below.

DATES: Written comments should be received on or before August 25, 2004.

ADDRESSES: You may obtain a copy of the information available by contacting

the Service's Regional Safe Harbor Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345, or Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 646 Cajundome Boulevard, Suite 400, Lafayette, Louisiana 70506. Alternatively, you may set up an appointment to view these documents at either location during normal business hours. Written data or comments should be submitted to the Atlanta, Georgia, Regional Office. Requests for the documentation must be in writing to be processed, and comments must be in writing to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Gooch, Regional Safe Harbor Program Coordinator at the Service's Southeast Regional Office (see **ADDRESSES** above), telephone (404) 679–7124; or Mr. Troy Mallach, Fish and Wildlife Biologist, Lafayette Ecological Services Field Office (see **ADDRESSES** above), telephone (337) 291–3123.

SUPPLEMENTARY INFORMATION: Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefitting species listed under the Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to increased property use restrictions if their efforts attract listed species to their property or increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32.

The LDWF's proposed state-wide Agreement is designed to encourage voluntary RCW habitat restoration or enhancement activities by relieving a landowner who enters into a landowner-specific agreement (the SHMA) from any additional responsibility under the Act beyond that which exists at the time he or she enters into the program. The SHMA will identify any existing RCWs and any associated habitat (the baseline) and will describe the actions that the landowner commits to take (*e.g.*, hardwood midstory removal, cavity provisioning, *etc.*) or allows to be taken to improve RCW habitat on the property, and the time period within which those actions are to be taken and maintained. A participating landowner must maintain the baseline on his/her property (*i.e.*, any existing RCW groups and/or associated habitat), but may be allowed the opportunity to incidentally take RCWs at some point in the future if above baseline RCWs are attracted to that site by the proactive management measures undertaken by the landowner. It is important to note that the Agreement does not envision, nor will it authorize, incidental taking of any existing RCW group with one exception. This exception is incidental taking related to a baseline shift; in this circumstance the baseline will be maintained but redrawn or shifted on that landowner's property. Among the minimization measures proposed by the Applicant are no incidental take of RCWs during the breeding season, consolidation of small, isolated RCW populations at sites capable of supporting a viable RCW population, and measures to improve current and potential habitat for the species. Further details on the topics described above are found in the aforementioned documents available for review under this notice.

The geographic scope of the Applicant's Agreement is the entire State of Louisiana, but the Agreement would only authorize the future incidental take of above-baseline RCW groups on lands for which a respective CI has been signed. Lands potentially eligible for inclusion include all privately owned lands, state lands, and public lands owned by cities, counties, and municipalities, with potentially suitable RCW habitat in Louisiana.

We have evaluated several alternatives to the proposed action and these are described at length in the accompanying Environmental Assessment. The alternative of our paying landowners for desired management practices is not being pursued because we are presently unable to fund such a program. An alternative by which interested private or nonFederal property owners would prepare an individual permit application/Agreement with us also was evaluated. Under that alternative, we would process each permit application/Agreement individually. This would increase the effort, cost, and amount of time it would take to provide safe harbor assurances to participating landowners and then such benefits would be applied on a piece-meal, individual basis. We have determined the previously identified alternatives, which would result in delays and lack of a coordinated effort, would likely result in a continued decline of the RCWs on private lands due to habitat fragmentation, lack of beneficial habitat management, and the effects of demographic isolation. A no action alternative was also explored, but this alternative is not likely to increase the number of RCW groups or RCW habitat, nor would it alleviate landowner conflicts. Instead, the action proposed here, although it authorizes future incidental take, is expected to attract sufficient interest among Louisiana landowners to generate substantial net conservation benefits to the RCW on a landscape level. The Applicant's Agreement was developed in an adaptive management framework to allow changes in the program based on new scientific information including, but not limited to, biological needs and management actions proven to benefit the species or its habitat.

We provide this notice pursuant to section 10(c) of the Endangered Species Act and pursuant to implementing regulations for the National Environmental Policy Act (40 CFR 1506.6). We will evaluate the proposed Agreement, associated documents, and comments submitted thereon to determine whether the requirements of section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations have been met. If we determine that the requirements are met, we will issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant in accordance with the terms of the Agreement and specific terms and conditions of the authorizing permit. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Dated: June 22, 2004.

Sam D. Hamilton,

Regional Director.

[FR Doc. 04–16912 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK963–1410–HY–P; AA–6649–B, AA–6649–E, AA–6649–A2; ALA–2]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Atxam Corporation. The lands, containing approximately 13,866 acres, are located in Seward Meridian, in the

vicinity of Atka, Alaska, within the townships and ranges listed below:

T. 52 S., R. 72 W., Seward Meridian (SM)
Tps. 75 and 76 S., R. 121 W., SM
T. 91 S., Rs. 176 and 177 W., SM
T. 93 S., Rs. 177 and 179 W., SM

Notice of the decision will also be published four times in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until August 23, 2004 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Barbara Waldal, by phone at 907–271–5669, or by e-mail at *Barbara_Waldal@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Waldal.

Barbara Opp Waldal,

Land Law Examiner, Branch of Adjudication I.

[FR Doc. 04–16875 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1640–PD]

Emergency Closure of Public Land, Sierra County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of emergency closure.

SUMMARY: Notice is hereby given that effective immediately, the Las Cruces Field Office is implementing the emergency closure of certain public land located in Sierra County, New Mexico. The area is closed to all public use except for administrative purposes. This action is taken in order to protect public health and safety and to prevent resource degradation in the area of a plane crash site. The following public land is affected by the closure:

T. 11 S., R. 6 W., NMPM
Section 14, SW¼;
Section 15, that portion south of Sierra County Road 16;
Section 22, All;
Section 23, W½
Section 26, NW¼;
Section 27, N½.

DATES: This closure is effective immediately and shall remain in effect for one year.

ADDRESSES: Bureau of Land Management, Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico, 88005.

FOR FURTHER INFORMATION CONTACT: Leonard T. Brooks, Assistant Field Manager, Division of Multi-Resources, or John Besse, Environmental Protection Specialist, at the address above or by calling (505) 525–4300.

SUPPLEMENTARY INFORMATION: Violation of this closure is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 1 year. Copies of this closure order and maps showing the location of the affected area are available at the Las Cruces Field Office, during normal business hours, Monday through Friday, 7:45 a.m. to 4:30 p.m.

Authority: 43 CFR 8364.1: Closure and Restriction Orders.

Dated: April 15, 2004.

Jim C. McCormick, Jr.,

Acting Field Manager, Las Cruces.

[FR Doc. 04–16880 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1320–EL; WYW150210]

Notice of Availability (NOA) of the Record of Decision for the South Powder River Basin Coal Final Environmental Impact Statement (FEIS), NARO North LBA Tract, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, the Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the South Powder River Basin Coal FEIS; NARO North LBA Tract.

ADDRESSES: The document will be available electronically on the following Web site: *http://www.wy.blm.gov/.* Copies of the ROD are available for public inspection at the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.
- Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Janssen, Wyoming Coal Coordinator, at (307) 775–6206; or Ms. Mavis Love, Land Law Examiner, at (307) 775–6258. Both Mr. Janssen's and Ms. Love's offices are located at the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

SUPPLEMENTARY INFORMATION: As stated in the FEIS, a ROD will be issued for each of the five Federal coal tracts considered for leasing in the South Powder River Coal FEIS. The ROD covered by this NOA is for coal tract NARO North (WYW150210) and addresses leasing an estimated 323 million tons of in-place Federal coal administered by the BLM Casper Field Office underlying approximately 651 acres of private surface and 1,719 acres of Federal surface in Campbell County, Wyoming.

Because the Assistant Secretary of the Interior, Lands and Minerals Management, has concurred in this decision it is not subject to appeal to the Interior Board of Land Appeals, as provided in 43 CFR part 4. This decision is the final action of the Department of the Interior.

Dated: June 7, 2004.

Robert A. Bennett,

State Director.

[FR Doc. 04–17090 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW135231]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW135231 for lands in Johnson County, Wyoming. The petition was filed on time and was accompanied by

all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessees have agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessees have paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW135231 effective February 1, 2004, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 04–16876 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW143049]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW143049 for lands in Lincoln County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW143049 effective October 1, 2003, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 04–16877 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW144593]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW144593 for lands in Fremont County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Chief Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW144593 effective April 1, 2003, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 04–16879 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–100–1430–04; UTU–79712]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Utah

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action.

SUMMARY: The following public land, located in Washington County, Utah, have been examined and found suitable for classification for lease or conveyance to the Town of New Harmony under the provision of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*).

Salt Lake Meridian, Utah

T. 38 S., R. 13 W.,
Sec. 21, SE¼NW¼.
Containing 40 acres, more or less.

FOR FURTHER INFORMATION CONTACT: Kathy Abbott, BLM Realty Specialist at (435) 688–3234.

SUPPLEMENTARY INFORMATION: The Town of New Harmony purposes to use land to construct, operate and maintain a nature park. The land is not needed for Federal purposes. Leasing or conveying title to the affected public land is consistent with current BLM land use planning and would be in the public's interest.

The lease or patent, when issued, would be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights for a water facility granted to the town of New Harmony by right-of-way U–67507.

Detailed information concerning this action is available at the office of the Bureau of Land Management, St. George Field Office, 345 E. Riverside Drive, St. George, Utah 84790. On July 26, 2004,

the land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for leasing or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. Interested persons may submit comments regarding the proposed classification, leasing or conveyance of the land to the Federal Office Manager, St. George Field Office until September 9, 2004.

Classification Comments: Interested parties may submit comments involving the suitability of the lands for a nature park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the land will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the Town of New Harmony's application, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for nature park purposes.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective on September 24, 2004.

Dated: June 16, 2004.

James D. Crisp,

Field Office Manager.

[FR Doc. 04–16878 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Alaska Region, Outer Continental Shelf, Beaufort Sea Planning Area, Oil and Gas Lease Sale 195 (2005)

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Availability of an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI).

SUMMARY: The Minerals Management Service has prepared an environmental assessment for proposed Alaska Region Outer Continental Shelf (OCS) Beaufort Sea Planning Area Lease Sale 195. In this EA, OCS EIS/EA MMS 2004–028, MMS reexamined the potential environmental effects of the proposed action and its alternatives based on any new information regarding potential impacts and issues that were not available at the time the Alaska Region OCS Beaufort Sea Planning Area Oil and Gas Lease Sales 186, 195, and 202, Final Environmental Impact Statement, Volumes I through IV (multiple-sale EIS) was completed in February 2003. The MMS also prepared a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Anchorage, Alaska 99508–4364, Mr. Fred King, telephone (907) 271–6696.

SUPPLEMENTARY INFORMATION: Proposed Beaufort Sea Planning Area Lease Sale 195 is the second Beaufort Sea Planning Area lease sale scheduled in the Outer Continental Shelf Oil and Gas Leasing Program: 2002–2007 (5-Year Program). The multiple-sale EIS analyzed the effects of three lease sales considering resource estimates, project exploration and development activities, and impact-producing factors for each of the proposed Beaufort Sea Planning Area lease sales. The resource estimates and level of activities projected for proposed Lease Sale 195 remains essentially the same as examined in the multiple-sale EIS. No new significant impacts were identified for proposed Lease Sale 195 that were not already assessed in the multiple-sale EIS. As a result, MMS determined that a supplemental EIS is not required and prepared a FONSI.

EA Availability: To obtain a copy of the EA and FONSI, you may contact the Minerals Management Service, Alaska OCS Region, Attention: Ms. Nikki Lewis, Resource Center, 949 East 36th Avenue, Room 330, Anchorage, Alaska, 99508–4363, telephone (907) 271–6438 or 1–800–764–2627. You may also view the EA on the MMS website at *http://www.mms.gov/alaska.*

Written Comments: Interested parties may submit their written comments on this EA/FONSI until 30 days after the publication of this notice, to the Regional Director, Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska 99509–4363, or by electronic mail to *akeis@mms.gov.* Our practice is to make comments, including names and home addresses of respondents available for public review. An individual commenter may ask that we withhold their name, home address, or both from the public record, and we will honor such a request to the extent allowable by law. If you submit comments and wish us to withhold such information, you must state so prominently at the beginning of your submission. We will not consider anonymous comments, and we will make available for inspection in their entirety all comments submitted by organizations or businesses or by individuals identifying themselves as representatives of organizations or businesses.

Dated: July 2, 2004.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 04–16904 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, modified, discontinued, or completed since the last publication of this notice on May 18, 2004. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Sandra L. Simons, Manager, Contract Services Office, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2902.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939 and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to

contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period are necessary.

Factors considered in making such a determination shall include, but are not limited to (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

The February 27, 2004, notice should be used as a reference point to identify changes. The numbering system in this notice corresponds with the numbering system in the February 27, 2004, notice.

Definitions of Abbreviations Used in This Document

BCP—Boulder Canyon Project
Reclamation—Bureau of Reclamation
CAP—Central Arizona Project
CVP—Central Valley Project
CRSP—Colorado River Storage Project
FR—Federal Register
IDD—Irrigation and Drainage District
ID—Irrigation District
M&I—Municipal and Industrial
NMISC—New Mexico Interstate Stream Commission
O&M—Operation and Maintenance
P–SMBP—Pick-Sloan Missouri Basin Program
PPR—Present Perfected Right
SOD—Safety of Dams
WD—Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5223.

Discontinued contract action:

5. Bridgeport ID, Chief Joseph Dam Project, Washington: Warren Act contract for the use of an irrigation outlet in Chief Joseph Dam.

Completed contract action:

13. Fremont-Madison ID, Minidoka Project, Idaho-Wyoming: Repayment contract for reimbursable cost of SOD modifications to Grassy Lake Dam. Contract executed on June 7, 2004.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New contract action:

40. Plain View WD, CVP, California: Reorganization and proposed full contract assignment of Plain View WD's CVP supply to Byron-Bethany ID.

Modified contract action:

28. Sacramento River Settlement Contracts, CVP, California: Up to 145 contracts and one contract with Colusa Drain Mutual Water Company will be renewed; water quantities for these contracts total 2.2M acre-feet. These contracts will be renewed for a period of 40 years. The contracts will reflect an agreement to settle the dispute over water rights' claims on the Sacramento River and the Colusa Basin Drain.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

New contract action:

48. Mr. and Mrs. West, BCP, California: Assignment of contract No. 6–07–30–W0342 from Mr. and Mrs. West to Ronald E. and Shannon L. Williamson.

Completed contract actions:

20. Phelps Dodge Miami, Inc., CAP, Arizona: Amendment of subcontract to extend the deadline for giving notice of termination on exchange.

47. Cortaro-Marina ID, CAP, Arizona: Agreement with Reclamation and Arizona municipalities concerning the operation of a managed effluent recharge facility in the Santa Cruz River Channel.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

New contract actions:

25. Central Utah Water Conservancy District, Bonneville Unit, Central Utah Project, Utah: Negotiate a repayment contract for 60,000 acre-feet per year of M&I water from the Utah Lake System.

26. Carlsbad ID and NMISC, Carlsbad Project, New Mexico: Contract for storage and delivery of water produced by NMISC's River Augmentation Program, among Reclamation, Carlsbad ID, and NMISC. This will allow for storage of NMISC water in project facilities resulting in additional project water supply.

27. South Cache Water Users Association, Hyrum Project, Utah: Contract for repayment of 15 percent of SOD costs at Hyrum Dam.

Discontinued contract action:

4. Upper Gunnison River Water Conservancy District, Aspinall Unit, CRSP, Colorado: Long-term water service contract for up to 25,000 acre-feet for irrigation use.

Completed contract actions:

1.(b) Upper Gunnison Water Conservancy District, Aspinall Unit, CRSP, Colorado: A 40-year contract for 500 acre-feet of M&I water to support the District's plan of augmentation for

non-agricultural water uses within the District. The 500 acre-feet of water is to be resold by the District under third-party contracts approved by Reclamation, to water users located with the District's boundaries. Contract executed on April 1, 2004.

1.(c) Hawk Haven LLC, Aspinall Unit, CRSP: Hawk Haven LLC has requested a 40-year water service contract for 1 acre-foot of water out of Blue Mesa Reservoir to support its plan of augmentation, case No. 03WC091, District Court, Water Division 4. Contract executed March 11, 2004.

1.(d) Robert V. Ketchum, Aspinall Unit, CRSP: Robert V. Ketchum has requested a 40-year water service contract for 1 acre-foot water out of Blue Mesa Reservoir to support his plan of augmentation, case No. 02WC252, District Court, Water Division 4. Contract executed March 11, 2004.

Great Plains Region: Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–247–7790.

New contract actions:

42. Hill County WD, Milk River Project, Montana: Initiating renewal of municipal water contract No. 14–06–600–8954 which expires August 1, 2006.

43. East Bench ID, East Bench Unit, P–SMBP, Montana: The District requested a deferment of its 2004 distribution works repayment obligation. A request is being prepared to amend contract No. 14–06–600–3593 to defer payments in accordance with the Act of September 21, 1959.

44. Stutsman County Park Board, Jamestown Unit, P–SMBP, North Dakota: The Board is requesting a contract for minor amounts of water under a long-term contract to serve domestic needs for cabin owners at Jamestown Reservoir, North Dakota.

45. City of Huron, P–SMBP, South Dakota: Renewal of long-term operation, maintenance, and replacement agreement for O&M of the James Diversion Dam, South Dakota.

46. Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas: Public Law 108–231, dated May 28, 2004, authorized the Secretary of the Interior to extend the repayment period for the District from 40 to 50 years. A public notice will be published in the San Angelo Times, and a BON will be prepared to amend the District's repayment contract No. 14–06–500–369, to extend the repayment period and revise the repayment schedule.

47. Garrison Diversion Unit, P–SMBP, North Dakota: Contracts to provide for project use pumping power or project use pumping power and supplemental irrigation water with various irrigation districts in North Dakota, covering a combined maximum 28,000 acres within the boundaries and limits set by the Dakota Water Resources Act of 2000.

48. Security Water and Sanitation District, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a long-term contract for the use of excess capacity in the Fryingpan-Arkansas Project.

Modified contract actions:

20. Glendo Unit, P–SMBP, Wyoming: Contract renewal for long-term water service contracts with Burbank Ditch, New Grattan Ditch Company, Torrington ID, Lucerne Canal and Power Company, and Wright and Murphy Ditch Company.

21. Glendo Unit, P–SMBP, Nebraska: Contract renewal for long-term water service contracts with Bridgeport, Enterprise, and Mitchell IDs, and Central Nebraska Public Power and ID.

Dated: June 24, 2004.

Roseann Gonzales,

Director, Office of Program and Policy Services.

[FR Doc. 04–16913 Filed 7–23–04; 8:45 am]

BILLING CODE 4310–MN–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2004–5 CARP CD 2002]

Ascertainment of Controversy for the 2002 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice with request for comments and notices of intention to participate.

SUMMARY: The Copyright Office of the Library of Congress directs all claimants to royalty fees collected for calendar year 2002 under the cable statutory license to submit comments as to whether a Phase I or Phase II controversy exists as to the distribution of those fees and announces the deadline for the filing of Notices of Intention to Participate in a royalty distribution proceeding concerning those royalty fees.

DATES: Comments and Notices of Intention to Participate are due on August 25, 2004.

ADDRESSES: If hand delivered by a private party, an original and five copies of written comments and a Notice of Intention to Participate should be brought to Room LM–401 of the James Madison Memorial Building and the envelope should be addressed as follows: Office of the General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000 between 8:30 a.m. and 5 p.m. If delivered by a commercial courier, an original and five copies of written comments and a Notice of Intention to Participate must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Streets, NE,. between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel/CARP, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. If sent by mail, an original and five copies of written comments and a Notice of Intention to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Comments and Notices of Intention to Participate may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380; Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: Each year cable systems submit royalties to the Copyright Office for the retransmission to their subscribers of over-the-air television and radio broadcast signals. These royalties are, in turn, distributed in one of two ways to copyright owners whose works were included in a retransmission of an over-the-air broadcast signal and who timely filed a claim for royalties with the Copyright Office. The copyright owners may either negotiate the terms of a settlement as to the division of the royalty funds, or the Librarian of Congress may convene a Copyright Arbitration Royalty Panel (''CARP'') to determine the distribution of the royalty fees that remain in controversy. *See* 17 U.S.C. chapter 8.

During the pendency of any proceeding, the Librarian of Congress may distribute any amounts that are not in controversy, provided that sufficient funds are withheld to cover reasonable administrative costs and to satisfy all claims for which a controversy exists under his authority set forth in section 111(d)(4) of the Copyright Act, title 17 of the United States Code. *See, e.g.*,

Orders, Docket No. 2003–2 CARP CD 2001 (dated October 1, 2003), Docket No. 2002–8 CARP CD 2000 (dated December 4, 2002), Docket No. 2001–6 CARP CD 99 (dated October 17, 2001), Docket No. 2000–6 CARP CD 98 (dated October 12, 2000) and Docket No. 99–5 CARP CD 97 (dated October 18, 1999). However, the Copyright Office must, prior to any distribution of the royalty fees, ascertain who the claimants are and the extent of any controversy over the distribution of the royalty fees.

The CARP rules provide that:

> In the case of a royalty fee distribution proceeding, the Librarian of Congress shall, after the time period for filing claims, publish in the **Federal Register** a notice requesting each claimant on the claimant list to negotiate with each other a settlement of their differences, and to comment by a date certain as to the existence of controversies with respect to the royalty funds described in the notice. Such notice shall also establish a date certain by which parties wishing to participate in the proceeding must file with the Librarian a notice of intention to participate.

37 CFR 251.45(a). The Copyright Office may publish this notice on its own initiative, *see, e.g.*, 64 FR 23875 (May 4, 1999); in response to a motion for partial distribution from an interested party, *see, e.g.*, 68 FR 48415 (August 13, 2003), or in response to a petition requesting that the Office declare a controversy and initiate a CARP proceeding. In this case, the Office has received a motion for a partial distribution of the 2002 cable royalty fees.

On July 15, 2004, representatives of the Phase I claimant categories to which royalties have been allocated in prior cable distribution proceedings filed a motion with the Copyright Office for a partial distribution of the 2002 cable royalty fund. The Office will consider this motion after each interested party has been identified by filing the Notice of Intention to Participate requested herein and has had an opportunity to file responses to the motion.

1. Comments on the Existence of Controversies

Before commencing a distribution proceeding or making a partial distribution, the Librarian of Congress must first ascertain whether a controversy exists as to the distribution of the royalty fees and the extent of those controversies. 17 U.S.C. 803(d). Therefore, the Copyright Office is requesting comment on the existence and extent of any controversies, at Phase I and Phase II, as to the distribution of the 2002 cable royalty fees.

In Phase I of a cable royalty distribution, royalties are distributed to certain categories of broadcast programming that has been retransmitted by cable systems. The categories have traditionally been syndicated programming and movies, sports, commercial and noncommercial broadcaster-owned programming, religious programming, music programming, and Canadian programming. The Office seeks comments as to the existence and extent of controversies between these categories for royalty distribution.

In Phase II of a cable royalty distribution, royalties are distributed to claimants within a program category. If a claimant anticipates a Phase II controversy, the claimant must state each program category in which he or she has an interest that has not, by the end of the comment period, been satisfied through a settlement agreement and the extent of the controversy.

The Copyright Office must be advised of the existence and extent of all Phase I and Phase II controversies by the end of the comment period. It will not consider any controversies that come to its attention after the close of that period.

2. Notice of Intention To Participate

Section 251.45(a) of the rules, 37 CFR, requires that a Notice of Intention to Participate be filed in order to participate in a CARP proceeding, but it does not prescribe the contents of the Notice. In a prior proceeding, the Library was forced to address the issue of what constitutes a sufficient Notice and to whom it is applicable. *See* 65 FR 54077 (September 6, 2000); see also Orders in Docket No. 2000–2 CARP CD 93–97 (June 22, 2000, and August 1, 2000). These rulings will result in a future amendment to § 251.45(a) to specify the content of a properly filed Notice. In the meantime, the Office advises those parties filing Notices of Intention to Participate in this proceeding to comply with the following instructions.

Each claimant that has a dispute over the distribution of the 2002 cable royalty fees, either at Phase I or Phase II, shall file a Notice of Intention to Participate that contains the following: (1) The claimant's full name, address, telephone number, facsimile number (if any), and e-mail address (if any); (2) identification of whether the Notice covers a Phase I proceeding, a Phase II proceeding, or both; and (3) a statement of the claimant's intention to fully participate in a CARP proceeding.

Claimants may, in lieu of individual Notices of Intention to Participate, submit joint Notices. In lieu of the requirement that the Notice contain the claimant's name, address, telephone number, facsimile number, and e-mail address, a joint Notice shall provide the full name, address, telephone number, facsimile number (if any), and e-mail address (if any) of the person filing the Notice; and it shall contain a list identifying all the claimants that are parties to the joint Notice. In addition, if the joint Notice is filed by counsel or a representative of one or more of the claimants that are parties to the joint Notice, the joint Notice shall contain a statement from such counsel or representative certifying that, as of the date of submission of the joint Notice, such counsel or representative has the authority and consent of the claimants to represent them in the CARP proceeding.

Notices of Intention to Participate must be received by the Copyright Office no later than 5 p.m. on August 25, 2004.

3. Motion of Phase I Claimants for Partial Distribution

A claimant who is not a party to the motion may file a response to the motion no later than August 25, 2004, provided that the respondent files a Notice of Intention to Participate in this proceeding in accordance with this Notice.

The Motion of Phase I Claimants for Partial Distribution is posted on the Copyright Office Web site at *http://www.copyright.gov/carp/phase1motion.pdf.*

Dated: July 20, 2004.

David O. Carson,

General Counsel.

[FR Doc. 04–16962 Filed 7–23–04; 8:45 am]

BILLING CODE 1410–33–P

MILLENNIUM CHALLENGE CORPORATION

[FR 04–08]

Report on Countries That Are Candidates for Millennium Challenge Account Eligibility in FY 2005 and Countries That Would Be Candidates but for Legal Prohibitions

AGENCY: Millennium Challenge Corporation.

SUMMARY: Section 608(d) of the Millennium Challenge Act of 2003 requires the Millennium Challenge Corporation to publish a report that identifies countries that are ''candidate countries'' for Millennium Challenge Account assistance during FY 2005. The report is set forth in full below.

Report: This report to Congress is provided in accordance with section

608(a) of the Millennium Challenge Act of 2003, codified at 22 U.S.C. 7701 and 7707(a) (the ''Act''). The Act authorizes the provision of Millennium Challenge Account (''MCA'') assistance to countries that enter into compacts with the United States to support policies and programs that advance the prospects of such countries achieving lasting economic growth and poverty reduction. The Act requires the Millennium Challenge Corporation to take a number of steps in determining the countries that, based on their demonstrated commitment to just and democratic governance, economic freedom and investing in their people, will be eligible for MCA assistance during Fiscal Year 2005. These steps include the submission of reports to the congressional committees specified in the Act and the publication of notices in the **Federal Register** that identify:

1. The countries that are ''candidate countries'' for MCA assistance during Fiscal Year 2005 based on their per-capita income levels and their eligibility to receive assistance under U.S. law and countries that would be candidate countries but for legal prohibitions on assistance (section 608(a) of the Act);

2. The criteria and methodology that the Board of Directors of the Millennium Challenge Corporation (the ''Board'') will use to measure and evaluate the relative policy performance of the candidate countries consistent with the requirements of section 607 of the Act in order to select ''eligible countries'' from among the ''candidate countries'' (section 608(b) of the Act); and

3. The list of countries determined by the Board to be ''eligible countries'' for Fiscal Year 2005, including which of the eligible countries the Board will seek to enter into MCA compacts (section 608(d) of the Act).

This notice is the first of the three required notices listed above.

Candidate Countries for FY 2005

The Act requires the identification of all countries that are candidates for MCA assistance in FY 2005 and the identification of all countries that would be candidate countries but for legal prohibitions on assistance. Section 606(a) of the Act provides that, during FY 2005, countries shall be candidates for the MCA if they:

- Have a *per capita* income equal to or less than the historical ceiling of the International Development Association for the fiscal year involved (or $1465 for FY 2005); and
- Are not subject to legal provisions that prohibit them from receiving United States economic assistance under part I of the Foreign Assistance Act of 1961, as amended.

Pursuant to section 606(c) of the Act, the Board of Directors of the Millennium Challenge Corporation has identified the following countries as candidate countries under the Act for FY 2005. In so doing, the Board has anticipated that prohibitions against assistance that applied to countries during FY 2004 will again apply during FY 2005, even though the Foreign Operations, Export Financing and Related Appropriations Act for FY 2005 has not yet been enacted and certain findings under other statutes have not yet been made. As noted below, the Millennium Challenge Corporation will provide any required updates on subsequent changes in applicable legislation or other circumstances that would affect the status of countries as candidate countries for FY 2005.

1. Afghanistan
2. Angola
3. Armenia
4. Azerbaijan
5. Bangladesh
6. Benin
7. Bhutan
8. Bolivia
9. Burkina Faso
10. Cameroon
11. Chad
12. China
13. Comoros
14. Congo, Dem. Rep
15. Congo, Rep. (Brazzaville)
16. Djibouti
17. Egypt, Arab Rep. of
18. Equatorial Guinea
19. Eritrea, and
20. Ethiopia
21. Gambia
22. Georgia
23. Ghana
24. Guinea
25. Guyana
26. Haiti
27. Honduras
28. India
29. Ondonesia
30. Iraq [1]
31. Kenya
32. Kiribati
33. Kyrgyz Republic
34. Lao PDR
35. Lesotho
36. Madagascar
37. Malawi
38. Mali
39. Mauritania
40. Moldova
41. Mongolia
42. Morocco
43. Mozambique
44. Nepal
45. Nicaragua
46. Niger
47. Nigeria
48. Pakistan
49. Papua New Guinea
50. Paraguay
51. Philippines
52. Rwanda
53. Sao Tome and Principe
54. Senegal
55. Sierra Leone
56. Solomon Islands
57. Sri Lanka
58. Swaziland
59. Tajikistan
60. Tanzania
61. Timor-Leste
62. Togo
63. Turkmenistan
64. Tuvalu
65. Uganda
66.
67. Vanuatu
68. Vietnam
69. Yemen, Rep.
70. Zambia

Albania, Bosnia and Herzegovina, Cape Verde, and Tonga were candidate countries for FY 2004 but are not candidate countries for FY 2005, due to increases in their levels of per capita income above the historical ceiling of the International Development Association. In addition, Serbia & Montenegro, which would have been a candidate country for FY 2004 but for legal prohibitions that apply to Serbia, is not a candidate country for FY 2005 due to an increase in its *per capita* income above the International Development Association historical ceiling.

Countries That Would Be Candidate Countries but for Statutory Provisions That Prohibit Assistance

Countries that would be considered candidate countries during FY 2005 but are subject to legal provisions which prohibit them from receiving U.S. economic assistance under part I of the Foreign Assistance Act of 1961, as amended (the ''Foreign Assistance Act'') are listed below. As noted above, this list is based on legal prohibitions against economic assistance that apply during FY 2004 that are anticipated to apply again during FY 2005.

1. Burma. Section 570 of the FY 1997 Foreign Operations Act prohibits assistance to the government with certain narrow exceptions. In addition, Burma has been identified as a major

[1] Iraq is identified as a candidate country on a provisional basis. Iraq is subject to section 620(t) of the Foreign Assistance Act of 1961, as amended, which prohibits assistance to countries with which the United States severed diplomatic relations, unless diplomatic relations have been resumed and an agreement for the furnishing of assistance has subsequently been entered into. While the United States has resumed diplomatic relations with Iraq, an assistance agreement, which would satisfy section 620(t), has not yet been completed. If such an agreement has not been entered into by the date on which the MCC Board determines eligible countries pursuant to section 607 of the Act, Iraq will not be treated as a candidate country as of that date.

drug-transit or major illicit drug producing country for 2004 (Presidential Determination No. 2003–38, dated 9/15/03) and designated as having ''failed demonstrably'' to adhere to its international obligations and take the measures required by section 489(a)(1) of the Foreign Assistance Act, thus making Burma ineligible for assistance. Burma is listed as a Tier III country under the Trafficking Victims Protection Act for not complying with minimum standards for eliminating trafficking and not making significant efforts to comply (Presidential Determination No. 2003–35, 9/9/03).

2. Burundi is subject to section 508 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (''FY 2004 Appropriations Act''), which prohibits assistance to the government of a country whose duly elected head of government has been deposed by a military coup.

3. Cambodia is subject to section 561(b) of the FY 2004 Appropriations Act, which prohibits assistance to the central government of Cambodia, except in specified circumstances.

4. Central African Republic is subject to section 508 of the FY 2004 Appropriations Act.

5. Cote d'Ivoire is subject section 508 of the FY 2004 Appropriations Act.

6. Cuba. Section 507 of the FY 2004 Appropriations Act prohibits direct assistance to Cuba. The Cuban Liberty and Democratic Solidarity Act of 1996, Pub. L. 104–114 requires the President to take all necessary steps to ensure that no funds or other assistance is provided to the Cuban government.

7. Guinea-Bissau is subject to section 508 of the FY 2004 Appropriations Act.

8. Liberia is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2004 Appropriations Act, both of which prohibit assistance under part I of the Foreign Assistance Act based on past due indebtedness to the United States.

9. Somalia is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2004 Appropriations Act.

10. Sudan is subject to: section 620(q) of the Foreign Assistance Act and section 512 of the FY 2004 Appropriations Act. Sudan also is subject to section 508 of the FY 2004 Appropriations Act and section 620A of the Foreign Assistance Act.

11. Syrian Arab Republic. Section 507 of the FY 2004 Appropriations Act prohibits direct assistance to Syria.

12. Uzbekistan is subject to section 568 of the FY 2004 Appropriations Act, which requires that funds appropriated for assistance to the central Government of Uzbekistan may be made available only if the Secretary of State determines and reports to the Congress that the government is making substantial and continuing progress in meeting its commitments under a framework agreement with the United States.

13. Zimbabwe is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2004 Appropriations Act.

Countries identified above as candidate countries, as well as countries that would be considered candidate countries but for the applicability of legal provisions that prohibit U.S. economic assistance, may be the subject of future statutory restrictions or determinations, or changed country circumstances, that affect their legal eligibility for assistance under part I of the Foreign Assistance Act during FY 2005. The Millennium Challenge Corporation will include any required updates on such statutory eligibility that affect countries' identification as candidate countries for FY 2005, at such time as it publishes the notices required by sections 608(b) and 608(d) of the Act or at other appropriate times. Any such updates with regard to the legal eligibility or ineligibility of particular countries identified in this report will not affect the date on which the Board of Directors is authorized to determine eligible countries from among candidate countries which, in accordance with section 608(a) of the Act, shall be no sooner than 90 days from the date of publication of this notice.

Dated: July 21, 2004.

Paul V. Applegarth,

Chief Executive Officer, Millennium Challenge Corporation.

[FR Doc. 04–16982 Filed 7–23–04; 8:45 am]

BILLING CODE 9210–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of two currently approved information collections. The first information collection is used to evaluate requests for access to records that have been restricted because they contain highly personal information. The second information collection is an application that is submitted to a Presidential library to request the use of space in the library for a privately sponsored activity. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before September 24, 2004, to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001; or faxed to 301–837–3213; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title:* Statistical Research in Archival Records Containing Personal Information.

OMB number: 3095–0002.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals.

Estimated number of respondents: 1.

Estimated time per response: 7 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 7 hours.

Abstract: The information collection is prescribed by 36 CFR 1256.4 and 36 CFR 1256.16. Respondents are

researchers who wish to do biomedical statistical research in archival records containing highly personal information. NARA needs the information to evaluate requests for access to ensure that the requester meets the criteria in 36 CFR 1256.4 and that the proper safeguards will be made to protect the information.

2. *Title:* Application and Permit for Use of Space in Presidential Library and Grounds.

OMB number: 3095–0024.

Agency form number: NA Form 16011.

Type of review: Regular.

Affected public: Private organizations.

Estimated number of respondents: 1,000.

Estimated time per response: 20 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 333 hours.

Abstract: The information collection is prescribed by 36 CFR 1280.94. The application is submitted to a Presidential library to request the use of space in the library for a privately sponsored activity. NARA uses the information to determine whether use will meet the criteria in 36 CFR 1280.94 and to schedule the date.

Dated: July 19, 2004.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 04–16978 Filed 7–23–04; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Renewal of Advisory Committee on Presidential Libraries

This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.) and advises of the renewal of the National Archives and Records Administration's (NARA) Advisory Committee on Presidential Libraries. In accordance with Office of Management and Budget (OMB) Circular A–135, OMB approved the inclusion of the Advisory Committee on Presidential Libraries in NARA's ceiling of discretionary advisory committees.

NARA has determined that the renewal of the Advisory Committee is in the public interest due to the expertise and valuable advice the Committee members provide on issues affecting the functioning of existing Presidential libraries and library programs and the development of future Presidential libraries. NARA will use the Committee's recommendations in its implementation of strategies for the efficient operation of the Presidential libraries. NARA's Committee Management Officer is Mary Ann Hadyka. She can be reached at 301–837–1782.

Dated: July 17, 2004.

John W. Carlin,

Archivist of the United States.

[FR Doc. 04–16979 Filed 7–23–04; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that two meetings of the Combined Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows:

Opera: August 16–17, 2004, Room 716 (Access to Artistic Excellence category, Panel A). This meeting, from 9 a.m. to 5:30 p.m. on both days, will be closed.

Opera: August 18, 2004, Room 716 (Access to Artistic Excellence category, Panel B). A portion of this meeting, from 4:30 p.m. to 5:30 p.m., will be open to the public for policy discussion. The remaining portions of this meeting, from 9:30 a.m. to 4:30 p.m. and from 5:30 p.m. to 6 p.m., will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of April 14, 2004, these sessions will be closed to the public pursuant to subsection (c)(6) of 5 U.S.C. 552b.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: July 19, 2004.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 04–16970 Filed 7–23–04; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On June 15, 2004, the National Science Foundation published a notice in the **Federal Register** of a permit applications received. A permit was issued on July 21, 2004 to: Donal T. Manahan: Permit No. 2005–007.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 04–16949 Filed 7–23–04; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an

agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 4, ''Nondiscrimination in Federally Assisted Commission Programs''.

3. *The form number if applicable:* Not Applicable.

4. *How often the collection is required:* On occasion and annually.

5. *Who will be required or asked to report:* Recipients of Federal Financial Assistance provided by the NRC (including 33 Agreement States, 6 Educational Institutions and 15 Other Nonprofit Organizations).

6. *An estimate of the number of annual responses:* 108 (54 responses + 54 recordkeepers).

7. *The estimated number of annual respondents:* 54.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 432 hours (270 hrs for reporting or 5 hours per response and 162 hours for recordkeeping or 3 hours per recordkeeper).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* Recipients of NRC financial assistance provide data to demonstrate assurance to NRC that they are in compliance with non-discrimination regulations and policies.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 25, 2004. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

OMB Desk Officer, Office of Information and Regulatory Affairs (3150–0053), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 20th day of July, 2004.

For the Nuclear Regulatory Commission.

Beth St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 04–16898 Filed 7–23–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Company; Notice of Withdrawal of Application for Amendments to Renewed Facility Operating License Nos. NPF–4 and NPF–7

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Virginia Electric and Power Company (the licensee) to withdraw its March 4, 2004, application for proposed amendments to Renewed Facility Operating License Nos. NPF–4 and NPF–7 for the North Anna Power Station, Units 1 and 2, located in Louisa County, Virginia.

The proposed amendments would have revised the Technical Specifications by deleting the Note from Surveillance Requirement 3.4.12.7 for the power-operated relief valves.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on April 13, 2004 (69 FR 19577). However, by letter dated July 1, 2004, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated March 4, 2004, and the licensee's letter dated July 1, 2004, which withdrew the application for license amendments. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 7th day of July 2004.

For the Nuclear Regulatory Commission.

Stephen Monarque,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–16899 Filed 7–23–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Safeguards and Security; Notice of Meeting

The ACRS Subcommittee on Safeguards and Security will hold a closed meeting on August 24–26, 2004, at Sandia National Laboratories, Albuquerque, New Mexico.

The entire meeting will be closed to public attendance to protect information classified as national security information and safeguards information pursuant to 5 U.S.C. 552b(c)(1) and (3).

The agenda for the subject meeting shall be as follows:

Tuesday, Wednesday and Thursday, August 24–26, 2004—8:30 a.m. Until the Conclusion of Business

The Subcommittee will hear presentations from the NRC staff, NRC staff consultants, and representatives of the industry regarding safeguards and security issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Further information contact: Mr. Richard K. Major (telephone: 301–415–7366) or Dr. Richard P. Savio (telephone: 301–415–7362) between 7:30 a.m. and 4:15 p.m. (ET).

Dated: July 20, 2004.

Michael R. Snodderly,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 04–16900 Filed 7–23–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on August 17–18, 2004, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The agenda for the subject meeting shall be as follows:

Tuesday and Wednesday, August 17–18, 2004—8:30 a.m. Until the Conclusion of Business

The Subcommittee will review the staff's final safety evaluation report on the industry guidelines related to resolution of GSI–191, ''Assessment of Debris Accumulation on PWR Sump Performance.'' The Subcommittee will also review the final staff resolution of GSI–185, ''Control of Recriticality Following Small-Break LOCAs in PWRs.'' The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Ralph Caruso (Telephone: 301–415–8065) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: July 20, 2004.

Michael R. Snodderly,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 04–16901 Filed 7–23–04; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Termination of Single Employer Plans, Missing Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') is requesting that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of a collection of information in its regulations on Termination of Single Employer Plans and Missing Participants, and implementing forms and instructions (OMB control number 1212–0036, expires August 31, 2004.) This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by August 25, 2004.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503.

Copies of the request for extension (including the collection of information) may be obtained by writing to the PBGC's Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, or by visiting that office or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The regulations and forms and instructions relating to this collection of information may be accessed on the PBGC's Web site at *http://www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Under section 4041 of the Employee Retirement Income Security Act of 1974, as amended, a single-employer pension plan may terminate voluntarily only if it satisfies the requirements for either a standard or a distress termination. Pursuant to ERISA section 4041(b), for standard terminations, and section 4041(c), for distress terminations, and the PBGC's termination regulation (29 CFR part 4041), a plan administrator wishing to terminate a plan is required to submit specified information to the PBGC in support of the proposed termination and to provide specified information regarding the proposed termination to third parties (participants, beneficiaries, alternate payees, and employee organizations). In the case of a plan with participants or beneficiaries who cannot be located when their benefits are to be distributed, the plan administrator is subject to the requirements of ERISA section 4050 and the PBGC's missing participants regulation (29 CFR part 4050). (These regulations may be accessed on the PBGC's Web site at *http://www.pbgc.gov.*)

The collection of information under these regulations and implementing forms and instructions has been approved by OMB under control number 1212–0036 (expires August 31, 2004). The PBGC is requesting that OMB extend its approval for three years.

The PBGC estimates that 1,175 plan administrators will be subject to the collection of information requirements in the PBGC's termination and missing participants regulations and implementing forms and instructions each year, and that the total annual burden of complying with these requirements is 1,743 hours and $1,973,075. (Much of the work associated with terminating a plan is performed for purposes other than meeting these requirements.)

Issued in Washington, DC, this 20th day of July, 2004.

Stuart A. Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 04–16930 Filed 7–23–04; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Notice of Application of Universal Display Corporation to Withdraw its Common Stock, $.01 Par Value From Listing and Registration on the Philadelphia Stock Exchange, Inc. File No. 1–12031

July 20, 2004.

On July 9, 2004, Universal Display Corporation, a Pennsylvania corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.01 par value (''Security''), from listing and registration on the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer approved a resolution on June 15, 2004 to voluntarily withdraw its Security from listing on the Exchange. The Board states that it is taking such action for the following reasons: (i) The Security is currently listed on the Nasdaq National Market System (''Nasdaq'') and the Phlx; (ii) the Security has traded almost exclusively on Nasdaq over the past several years; (iii) according to the Phlx, there have been no trades on the Security on the

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

Exchange during the last two years; and (iv) the Board states that it is in the best interest of the Issuer and its stockholders to terminate listing the Security on the Exchange and to maintain its listing of the Security on Nasdaq.

The Issuer states in its application that it has met the requirements of Phlx Rule 809 governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the withdrawal of the Security from listing on the Phlx and from registration under section 12(b) of the Act [3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before August 12, 2004, comment on the facts bearing upon whether the application has been made in accordance with the rules of the Phlx, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

• Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–12031 or;

Paper Comments

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number 1–12031. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 04–16920 Filed 7–23–04; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50047; File No. PCAOB–2004–04]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules Relating to Oversight of Non-U.S. Registered Public Accounting Firms

July 20, 2004.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (''Act''), notice is hereby given that on June 18, 2004, the Public Company Accounting Oversight Board (''Board'' or ''PCAOB'') filed with the Securities and Exchange Commission (''Commission'') the proposed rules described in Items I and II below, which items have been prepared by the Board and are presented here in the form submitted by the Board. The Commission is publishing this notice to solicit comments on the proposed rules from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rules

On June 9, 2004, the Board adopted PCAOB Rules 4011 and 4012, PCAOB Rule 5113 and PCAOB Rules 6001 and 6002, and two definitions that would appear in PCAOB Rule 1001, to codify the Board's framework relating to the oversight of non-U.S. public accounting firms. The text of the proposed rules and definitions is as follows:

Section 1. General Provisions

Rule 1001.Definitions of Terms Employed in Rules

When used in the Rules, unless the context otherwise requires:

* * * * *

(f)(ii) Foreign Registered Public Accounting Firm

The term ''foreign registered public accounting firm'' means a foreign public accounting firm that is a registered public accounting firm.

* * * * *

(n)(iii) Non-U.S. Inspection

The term ''non-U.S. inspection'' means an inspection of a foreign registered public accounting firm conducted within a non-U.S. oversight system.

* * * * *

Section 4. Inspections

* * * * *

Rule 4011. Statement by Foreign Registered Public Accounting Firms

A foreign registered public accounting firm that seeks to have the Board rely, to the extent deemed appropriate by the Board, on a non-U.S. inspection when the Board conducts an inspection of such firm pursuant to Rule 4000 shall submit a written statement signed by an authorized partner or officer of the firm to the Board certifying that the firm seeks such reliance for all Board inspections.

Rule 4012. Inspections of Foreign Registered Public Accounting Firms

(a) If a foreign registered public accounting firm has submitted a statement pursuant to Rule 4011, the Board will, at an appropriate time before each inspection of such firm, determine the degree, if any, to which the Board may rely on the non-U.S. inspection. To the extent consistent with the Board's responsibilities under the Act, the Board will conduct its inspection under Rule 4000 in a manner that relies to that degree on the non-U.S. inspection. In making that determination, the Board will evaluate—

(1) information concerning the level of the non-U.S. system's independence and rigor, including the adequacy and integrity of the system, the independence of the system's operation from the auditing profession, the nature of the system's source of funding, the transparency of the system, and the system's historical performance; and

(2) discussions with the appropriate entity or entities within the system concerning an inspection work program.

(b) The Board's evaluation made pursuant to paragraph (a) may include, but not be limited to, consideration of—

(1) the adequacy and integrity of the system, including—

(i) whether the system has the authority to inspect audit and review engagements, evaluate the sufficiency of the quality control system, and perform such other testing as deemed necessary of foreign public accounting firms; and whether the system can exercise such authority without the approval of, or consultation with, any person affiliated or otherwise connected with a public accounting firm or an association of such persons or firms;

(ii) whether the system has the authority to conduct investigations and

disciplinary proceedings of foreign public accounting firms, any persons of such firms, or both, that may have violated the laws and standards relating to the issuance of audit reports, and whether the system can exercise such authority without the approval of, or consultation with, any person affiliated or otherwise connected with a public accounting firm or an association of such persons or firms;

(iii) whether the system has the authority to impose appropriate sanctions for violations of the non-U.S. jurisdiction's laws and standards relating to the issuance of audit reports, and whether the system can exercise such authority without the approval of, or consultation with, any person affiliated or otherwise connected with a public accounting firm or an association of such persons or firms; and

(iv) whether the persons within the system have adequate qualifications and expertise;

(2) the independence of the system from the auditing profession, including—

(i) whether the system has the authority to establish and enforce ethics rules and standards of conduct for the individual or group of individuals who govern the system and its staff and has prohibited conflicts of interest, and whether the system can exercise such authority without the approval of, or consultation with, any person affiliated or otherwise connected with a public accounting firm or an association of such persons or firms;

(ii) whether the person or persons governing the system—

(A) have been appointed, or otherwise selected, by the government of the non-U.S. jurisdiction, without the approval of, or consultation with, any person affiliated or otherwise connected with a public accounting firm or an association of such persons or firms; and

(B) may be removed only by the government of the non-U.S. jurisdiction and may not be removed by any person affiliated or otherwise connected with a public accounting firm or an association of such persons or firms;

(iii) whether a majority of the individuals with whom the system's decision-making authority resides do not hold licenses or certifications authorizing them to engage in the business of auditing or accounting and did not hold such licenses or certificates for at least the last five years immediately before assuming their position within the system;

(iv) whether a majority of the individuals with whom the system's decision-making authority resides, including the individual who functions as the entity's chief executive or equivalent thereof, are not practicing public accountants; and

(v) whether each entity within the system has the authority to conduct its day-to-day operations without the approval of any person affiliated or otherwise connected with a public accounting firm or an association of such persons or firms;

(3) the source of funding for the system, including whether the system has an appropriate source of funding that is not subject to change, approval or influence by any person affiliated or otherwise connected with a public accounting firm or an association of such persons or firms;

(4) the transparency of the system, including whether the system's rulemaking procedures and periodic reporting to the public are openly visible and accessible; and

(5) the system's historical performance, including whether there is a record of disciplinary proceedings and appropriate sanctions, but only for those systems that have existed for a reasonable period of time.

* * * * *

Section 5. Investigations and Adjudications

* * * * *

Rule 5113. Reliance on the Investigations of Non-U.S. Authorities

Upon the recommendation of the Director of Enforcement and Investigations or upon the Board's own motion, the Board may, in appropriate circumstances, rely upon the investigation or a sanction, if any, of a foreign registered public accounting firm by a non-U.S. authority.

* * * * *

Section 6. International

Rule 6001. Assisting Non-U.S. Authorities in Inspections

The Board may, as it deems appropriate, provide assistance in an inspection of a registered public accounting firm organized and operating under the laws of the United States conducted pursuant to the laws and/or regulations of a non-U.S. jurisdiction. The Board may consider the independence and rigor of the non-U.S. system in determining the extent of the Board's assistance.

Rule 6002. Assisting Non-U.S. Authorities in Investigations

The Board may, as it deems appropriate, provide assistance in an investigation of a registered public accounting firm organized and operating under the laws of the United States conducted pursuant to the laws and/or regulations of a non-U.S. jurisdiction. The Board may consider the independence and rigor of the non-U.S. system in determining the extent of the Board's assistance.

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rules and discussed any comments it received on the proposed rules. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

(a) Purpose

Section 106(a) of the Act provides that non-U.S. public accounting firms are subject to the Act and the rules of the Board and the Commission issued under the Act in the same manner and to the same extent as a U.S. public accounting firm. The Board developed a framework under which the Board could implement the Act's provisions by relying, to an appropriate degree, on a non-U.S. oversight system. The proposed rules codify the Board's framework relating to the oversight of non-U.S. public accounting firms.

The rules adopted address the Board's oversight of non-U.S. accounting firms that register with the Board and the Board's willingness to assist non-U.S. authorities in their oversight of U.S. firms.

The Board's rules on inspections (PCAOB Rules 4011 and 4012) provide a foreign registered public accounting firm an opportunity to minimize the unnecessarily duplicative administrative burdens of dual oversight by requesting that the Board rely—to an extent deemed appropriate by the Board—on inspections of the registered firm under the home country's oversight system. Under the Board's rules, a firm would first provide the Board with a one-time statement asking the Board to rely on a non-U.S. inspection. At an appropriate time before each inspection of a non-U.S. firm that has submitted such a statement, the Board would determine the appropriate degree of reliance based on information about the non-U.S. system obtained primarily from the non-U.S. regulator regarding

the independence and rigor of the non-U.S. system. The Board would also base its decision on its discussions with the appropriate entity or entities within the oversight system concerning the specific inspection work program for the non-U.S. firm's inspection at hand. The more independent and rigorous a home-country system, the higher the Board's reliance on that system. A higher level of reliance translates into less direct involvement by the Board in the inspection of the non-U.S. registered public accounting firm.

The Board's rule on investigations (PCAOB Rule 5113) provides that the Board may, in appropriate circumstances, rely upon the investigation or sanction, if any, of a foreign registered public accounting firm by a non-U.S. authority. The Board's reliance would depend, in part, on the independence and rigor of the non-U.S. authority. Reliance also may depend on the non-U.S. authority's willingness to update the Board regarding the investigation on a regular basis and its willingness and authority to share the relevant evidence gathered with the Board.

The Board has also adopted two rules reflecting its willingness to assist non-U.S. authorities in their oversight of firms located in the U.S. and registered with the Board. PCAOB Rule 6001 relates to inspections and provides that the Board may, as it deems appropriate, assist a non-U.S. authority in its inspection of a registered U.S. firm. PCAOB Rule 6002 relates to investigations and provides that the Board may, as it deems appropriate and to the extent permitted by law, assist a non-U.S. authority in the investigation of a registered U.S. accounting firm.

(b) Statutory Basis

The statutory basis for the proposed rule is Title I of the Act.

B. Board's Statement on Burden on Competition

The Board does not believe that the proposed rules will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rules codify the Board's framework relating to the oversight of non-U.S. public accounting firms.

C. Board's Statement on Comments on the Proposed Rules Received From Members, Participants and Others

The Board released the proposed rules for public comment in PCAOB Release No. 2003–024 (December 10, 2003). A copy of PCAOB Release No. 2003–024 and the comment letters received in response to the PCAOB's request for comment are available on the PCAOB's Web site at *pcaobus.org*. The Board received 22 written comments. The Board has clarified and modified certain aspects of the proposed rules in response to comments it received, as discussed below.

Rule 4011—Statement by Foreign Registered Public Accounting Firm

PCAOB Rule 4011 states that a foreign registered public accounting firm that seeks to have the Board rely on a non-U.S. inspection when the Board conducts an inspection of such firm pursuant to PCAOB Rule 4000 shall submit a written statement signed by an authorized partner or officer of the firm to the Board certifying that the firm seeks such reliance for Board inspections.

The Board's proposed rule would have required that foreign registered public accounting firms submit to the Board a written petition, in English, describing the non-U.S. system's laws, rules and/or other information to assist the Board in evaluating such system's independence and rigor. Many commenters argued that this requirement was neither practical nor effective, that different public accounting firms within the same jurisdiction may translate and describe the system differently, and that non-U.S. regulators, rather than public accounting firms, are in a better position to describe the non-U.S. system, as they may possess information unknown by a foreign registered public accounting firm.

In response to these comments, the Board has decided not to impose the petition requirement. The Board's rule does not require a foreign registered public accounting firm to describe its oversight system, including its legal underpinnings. As explained more fully below, under PCAOB Rule 4012, the Board will, at an appropriate time, obtain information about the non-U.S. system directly from the appropriate non-U.S. regulator.

Instead of requiring a petition, the Board has adopted a rule permitting a foreign registered public accounting firm to submit a one-time statement certifying that it seeks to have the Board rely on a non-U.S. inspection when the Board conducts an inspection pursuant to PCAOB Rule 4000. This statement may be submitted at any time after the foreign public accounting firm's registration application has been approved by the Board. The statement, which must be signed by an authorized partner or officer of the firm, should be addressed to the attention of the Secretary and may be submitted via post or electronic mail (*secretary@pcaobus.org*). If the statement is submitted via electronic mail, the words ''Rule 4011 Statement'' must be included in the subject line.

The Board believes that a foreign registered public accounting firm's one-time statement, which is not associated with any specific Board inspection, should resolve the concern expressed by some commenters that proposed PCAOB Rule 4011 would have left unclear when a foreign registered public accounting firm should submit the earlier proposed petition. Commenters indicated that some non-U.S. jurisdictions are in the process of developing new auditor oversight regimes or otherwise modifying their existing regimes. Those commenters were uncertain whether their petitions would need to be submitted immediately and then updated as changes occurred, or if they should wait until the changes to their local oversight regimes were finalized. Because the one-time statement is not associated with a specific Board assessment for a specific Board inspection under new PCAOB Rule 4012 and no longer includes any description requirements of the non-U.S. system, a foreign registered public accounting firm may submit the statement without waiting for the finalization of any potential changes to its oversight regime. Of course, if the foreign registered public accounting firm is selected for inspection before the finalization of changes to its non-U.S. system, the Board would make a reliance determination under PCAOB Rule 4012 based on the system in place at the time of the determination. As explained more fully below, finalization of changes in a non-U.S. system that affects a system's independence or rigor would necessitate a review of the Board's previous determination.

In addition, in response to comments, the Board has eliminated the proposed Exhibit 99.3 to Form 1, which would have allowed an applicant an option to provide the name and physical address of the applicant's foreign registrar or any other authority responsible for regulation of the applicant's practice of accounting. The Board believes it is more efficient for the Board to identify the appropriate non-U.S. regulator itself, rather than have a non-U.S. public accounting firm submit an additional exhibit to the Board through the registration system.

It should be noted that PCAOB Rule 4011 (and PCAOB Rule 4012) are not limitations on the Board. Thus, even if a non-U.S. registered public accounting firm does not choose to submit a

statement pursuant to Rule 4011, the Board may take steps it determines are necessary to facilitate the inspection of such firm through the cooperative framework.

Rule 4012—Inspections of Foreign Registered Public Accounting Firms

The Board has reorganized much of the substance, with some modification, of proposed PCAOB Rule 4011 into PCAOB Rule 4012. PCAOB Rule 4012 provides that the Board shall determine the degree, if any, it may rely on a non-U.S. inspection of a foreign registered public accounting firm that has submitted a statement pursuant to PCAOB Rule 4011. The Board will make such determination at an appropriate time before each inspection of such firm. In making that determination, the Board will evaluate (1) information concerning the level of the non-U.S. system's independence and rigor, including the adequacy and integrity of the system, the independence of the system's operation from the auditing profession, the nature of the system's source of funding, the transparency of the system, and the system's historical performance and (2) discussions with the appropriate entity or entities within the system concerning an inspection work program for the particular firm. The Board will consider certain illustrative criterion, now listed in the rule, in applying the broad principles articulated in PCAOB Rule 4012. PCAOB Rule 4012 also provides that the Board shall conduct its inspection under PCAOB Rule 4000 in a manner that relies on non-U.S. inspections, to the degree determined by the Board and to the extent consistent with the Board's responsibilities under the Act.

The Board received wide-ranging comments on the Board's proposal for determining the appropriate degree of reliance, including concerns about the Board's fundamental approach to oversight of foreign registered public accounting firms to requests for clarification or change to the Board's process for assessing a non-U.S. system.

After careful consideration of the comments, the Board has made certain changes to the proposed rule and offers clarification in other areas, each of which is explained below.

Comments on the Board's Overall Approach

With regard to the Board's overall approach, some commenters argued that the Board should adopt a ''mutual recognition'' model whereby the Board would accord complete deference to the home-country regulator in the areas of inspections, investigations and sanctions. Similarly, one commenter suggested that the Board should not issue its own inspection report for a foreign registered public accounting firm, but instead should rely on the report of the non-U.S. regulator.

The Board does not believe that a ''mutual recognition'' approach would be in the interests of U.S. investors or the public. While the Board is hopeful that it will be able to place a high degree of reliance on certain non-U.S. systems of oversight, the Board believes that it must preserve the ability to participate fully and directly in the inspection, investigation and sanction of foreign registered public accounting firms if warranted by the particular facts and circumstances. Under the Act, the Board's mission is to oversee the auditors of issuers in order to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports. More specifically, the Board is required by the Act to conduct inspections in order to assess the registered public accounting firm's compliance with U.S. laws, regulations and professional standards. Because non-U.S. regulatory authorities do not have this same mission, deferring to those authorities regardless of the circumstances would not be in the interests of U.S. investors or the public.

Several commenters criticized the principles and related criteria that the Board would consider in evaluating the independence and rigor of a non-U.S. system as disproportionately based on the principles and related criteria that underlie the oversight system in the United States. These commenters suggested that the Board would place a high level of reliance only on those non-U.S. systems that were identical or substantially similar to the Board.

The Board has previously stated that it believes that the ''sliding scale'' approach can accommodate a variety of oversight systems. The Board does not intend to require that non-U.S. systems be identical or even substantially similar to the PCAOB in order for the Board to place a high level of reliance on them.

That said, the Act and its creation of an independent public oversight entity for auditors (the PCAOB) reflect the view of the U.S. Congress that the self-regulatory system used to ensure high quality audits for U.S. issuers was not adequate. Thus, in determining the degree to which the Board may rely on a non-U.S. regulator to conduct inspections of firms located abroad that audit companies whose securities trade in U.S. markets, it is appropriate for the Board to evaluate that regulator in light of the principles that underlie the creation of the PCAOB. As explained in the proposing release, however, the listed criteria are not exhaustive, and the presence or absence of any one of the criteria would not necessarily be dispositive. The Board intends to assess the structure and operation of a non-U.S. system as a whole, and not base its decision on whether that system meets a certain number of the criteria.

Comments on Board's Assessment—Application of Principles and Criteria

In response to comments, the illustrative criteria the Board may consider in evaluating a non-U.S. system has been moved from the body of the release into the text of PCAOB Rule 4012.

With regard to the application of the principles and criteria, some commenters urged the Board to evaluate a non-U.S. system's independence and rigor on a country-by-country basis rather than firm-by-firm. Those commenters expressed concern that the Board may draw different conclusions with respect to foreign registered public accounting firms that are subject to the same non-U.S. system.

The Board intends to evaluate a non-U.S. system's independence and rigor on a country-by-country basis so that the conclusion regarding its independence and rigor will be the same for all non-U.S. registered public accounting firms within that system. Of course, each time a firm is selected for inspection, the Board would reconfirm that assessment in light of any changes that may have occurred to the non-U.S. system. In addition to the Board's consideration of the independence and rigor of a non-U.S. system, however, the Board must also consider the discussions with the non-U.S. regulator regarding the inspection work program for the individual non-U.S. registered public accounting firm selected for inspection. Because an inspection work program is specific to an individual non-U.S. registered public accounting firm, the Board's ultimate determination under PCAOB Rule 4012 can be made only on a firm-by-firm basis.

Some commenters urged the Board to describe precisely how the Board would weigh each of the listed criteria. Others urged the Board to avoid weighing certain criteria too heavily, including (1) whether members that govern the oversight system were appointed by the government, and (2) whether a majority of members hold licenses to practice public accounting.

The proposing release stated that the listed criteria are not intended to be exhaustive, and that the presence or

absence of any one of the criteria would not necessarily be dispositive. The Board continues to believe that it should not, in the abstract, specify a weight for individual criterion. Assigning a rigid weight to each criterion would create a ''check-the-box'' process that could result in the form and structure of an oversight system (rather than the substance within the system) having an inappropriate role in the Board's determination. Oversight systems may differ in form, structure and complexity and therefore meet different criteria in different ways, but they nevertheless may achieve the principles in PCAOB Rule 4012 in an equally effective manner. Consequently, the Board does not believe it is appropriate to create a rigid evaluation process that inadvertently penalizes an independent and rigorous system as a result of the Board's use of predetermined weights for the listed criteria. Instead, as explained above, the Board's rule permits the Board to analyze a non-U.S. system as a whole.

Other commenters requested that the Board define the term ''any other information,'' as used in proposed PCAOB Rule 4011(c)(2). The Board's modification of the proposed rule no longer includes those specific words. However, the Board's rule indicates the Board will evaluate *any* information that comes to its attention concerning the level of the non-U.S. system's independence and rigor. In other words, the Board does not intend to exclude any information due to its source. Of course, the Board will take into account the source of the information in considering the probative value of the information.

Several commenters argued that the proposed rule permits the Board unlimited discretion and therefore creates an unacceptable level of uncertainty with respect to the application of the rule in practice. The Board has decided against modifying the rule in response to these comments. While the Board retains the discretion to design inspection programs under the Act, the Board believes that the stated principles and criteria allow interested parties enough information to estimate reasonably the extent of reliance on a home-country inspection. In addition, the Board expects the level of uncertainty in a specific jurisdiction to subside as the Board begins to implement the rule.

A few commenters expressed concern that the criteria did not include consideration of whether those that govern have appropriate qualifications and expertise. The Board agrees and has included criteria related to the qualifications and expertise of persons within the non-U.S. system.

Another commenter suggested that the Board's criteria do not address financial, business or personal independence risks. As stated in the proposing release, the Board would consider whether an entity within the system has the authority to establish and enforce ethics rules and standards of conduct for an individual or a group of individuals that govern the system and associated staff. The Board believes this criterion captures the risks related to independence. As part of its assessment process, the Board could consider certain points raised by the specific policies of a code of ethics or a code of conduct and their impact on the independence of the system.

Comments on the Board's Assessment—Process

In addition to the substance of the Board's assessment under the proposed rule, several commenters argued that the Board should make changes to the *process* surrounding the Board's reliance determination.

First, a number of commenters urged the Board to allow an appeal of its reliance determination. The Board has decided against permitting an appeal of the Board's determination. Under the Act, the design and implementation of an inspection work program is within the discretion of the Board. It follows that, because the Board's decision regarding the appropriate degree of reliance, if any, is essentially a decision regarding the design and implementation of inspection work programs for non-U.S. registered public accounting firms, such decision is also properly within the Board's discretion. The Act does not provide for an appeal of the Board's design of such programs. In addition, allowing such an appeal would potentially permit a non-U.S. registered public accounting firm to impede the Board's ability to discharge its obligation under the Act to assess the compliance of that firm with U.S. laws and standards.

Some commenters asserted that the Board should be required to communicate the basis for the Board's determination to the public and representatives of the non-U.S. system. In response to these comments, the Board intends to provide a general description of its activities with representatives of non-U.S. systems either as part of its annual report to the public or in a separate public report to make the Board's processes under its framework more transparent. As a practical matter, representatives of the non-U.S. system will be informed of the basis for the Board's assessment as a natural part of the dialogue between the Board and those representatives. Under the framework for cooperation created by the Board's rules, a dialogue will take place between the Board and representatives of the non-U.S. system regarding the structure and operation of such system as well as the content of the inspection work programs for the non-U.S. registered public accounting firms within that system.

Another commenter urged that the Board require itself to maintain its initial assessment unless a formal request to change the assessment is made by the non-U.S. registered public accounting firm or alternatively that the Board provides advance notice of its intent to change its assessment determination. PCAOB Rule 4012 provides that the Board will conduct its inspection under PCAOB Rule 4000 in accordance with its reliance determination to the extent consistent with the Board's responsibilities under the Act. The Board intends to maintain its initial assessment unless there is a change in circumstances subsequent to such determination that necessitates a review of that determination. Generally, such circumstances would include changes in the non-U.S. system that affects the system's independence or rigor or changes in the willingness or ability of a non-U.S. regulator to cooperate with the Board in the inspection of a non-U.S. registered public accounting firm. It would not be in the interest of U.S. investors or the public for the Board to wait, notwithstanding a change in the system, until a non-U.S. registered public accounting firm requested a new assessment. If the Board determines that a change in its prior assessment is warranted, the non-U.S. regulator will be informed, again, as a part of the dialogue between that regulator and the Board.

Another commenter suggested that the Board should be required to provide a non-U.S. registered public accounting firm a copy of any written correspondence between the Board and the non-U.S. regulator. The Board disagrees. Providing the subject of the inspection process (*i.e.*, the registered firm) access to such correspondence could permit the firm subject to inspection an opportunity to be aware of the certain details regarding the inspection work program to be used during the inspection of such firm, as well as inhibit frank and open discussions between the Board and the non-U.S. regulator.

One commenter urged the Board to require that its reliance determination

be made within a specified time frame. First, PCAOB Rule 4012 already contains a deadline in that it requires that the Board complete discussions and make a determination at an appropriate time *before* the inspection of a registered non-U.S. firm begins. Second, otherwise permitting flexibility in the amount of time allowed is necessary for the Board to engage in a constructive regulator-to-regulator dialogue about the structure and operation of the non-U.S. system and the requirements of a specific firm's inspection. Thus, the Board has declined to modify the rule to require the Board to make its determination within a shorter or more specific time frame.

Some commenters stressed that the Board should not weigh unfavorably a non-U.S. regulator's ''willingness'' to provide access to information when they are prevented from doing so by an asserted conflict of law. As discussed in more detail below, the cooperative framework implemented through these rules may not resolve all potential legal conflicts. Thus, if a non-U.S. regulator is unable to share information, then that factor must be taken into account in the Board's decision on whether it is in the interest of U.S. investors and the public to rely on that regulator. Whether the regulator's inability to share information is weighed ''heavily'' will depend on the facts and circumstances at hand. Under the Act, the Board must assess each registered public accounting firm's compliance with U.S. laws and standards. A regulator's inability to share information could prevent the Board from making such assessment, which in turn, would prevent the Board from discharging its responsibilities under the Act.

Other commenters noted specifically that potential conflicts of law remain unresolved under the Board's proposed rules and urged the Board to adopt a rule similar to PCAOB Rule 2105 for inspections and investigations of foreign registered public accounting firms. Another commenter requested clarification regarding whether a submission made pursuant to PCAOB Rule 2105 in connection with a registration application applies to potential conflicts of law that may arise subsequent to registration and whether a non-U.S. registered public accounting firm's inability to cooperate due to those subsequent conflicts could subject such firm to disciplinary action. The commenter also requested clarification regarding whether a submission made pursuant to PCAOB Rule 2105 is also valid for the so-called ''deemed consent'' under Section 106 of the Act.

First, to clarify, PCAOB Rule 2105 provides the requirements for applicants that wish to withhold information from their applications for registration with the Board. The rule does not apply to potential conflicts of law that may arise subsequent to registration and does not affect the deemed consent under Section 106 of the Act.

Second, the Board recognizes that its rules relating to the oversight of non-U.S. registered public accounting firms do not conclusively resolve potential conflicts of law. Preserving the Board's ability to access audit work papers and other documents or information maintained by registered public accounting firms, including non-U.S. registered public accounting firms, is critical to the Board carrying out its obligations under the Act. Consequently, the Board does not believe that it is in the interests of U.S. investors or the public for the Board to adopt a rule of general application that would limit its ability to access such documents or information regardless of the circumstances or need for those documents or information.

Instead, as explained in the Briefing Paper, the Board envisages that potential conflicts of law that may arise in connection with an inspection or an investigation can be addressed through the cooperative approach. The Board continues to believe that most conflicts of law can be resolved through an approach in which the Board works in the first instance with the non-U.S. regulator or through the use of special procedures such as voluntary consents and waivers. As previously explained, the Board believes that it is appropriate that a cooperative approach respect the laws of other jurisdictions, to the extent possible. At the same time, every jurisdiction must be able to protect the participants in, and the integrity of, its capital markets as it deems necessary and appropriate. The Board believes that working with non-U.S. regulators in the first instance to overcome asserted conflicts of law reflects the appropriate balance between the interests of different systems and their laws.

The comments urging the Board to adopt a rule similar to PCAOB Rule 2105 for inspections and investigations seem to reflect the view that PCAOB Rule 2105 offers an opportunity for resolution to conflicts of law that are asserted during the registration process. Such interpretation is not correct. If the Board decides to treat a registration application in which information is withheld pursuant to PCAOB Rule 2105 as complete, such action by the Board would not constitute a concession that the non-U.S. law does in fact prohibit the applicant from supplying the information and would not preclude the Board from contesting that assertion in other contexts.

In other words, PCAOB Rule 2105 does not offer an absolute safe-harbor for public accounting firms that assert a conflict of laws. PCAOB Rule 2105 provides an opportunity for the public accounting firm to be heard on an asserted conflict of law in the context of registration. Although not set out in a separate rule, a similar opportunity to be heard regarding asserted conflicts of law that may arise in the context of inspections and investigations is already provided under the Act and the Board's rules regarding disciplinary hearings.

For those asserted conflicts of law that arise during an inspection or investigation and cannot be resolved by working with the appropriate non-U.S. regulator, by the use of voluntary waivers or consents, or by other means,[1] the Board's rules provide the registered public accounting firm with an opportunity to present its position to the Board regarding the asserted legal conflict before any action is taken by the Board. If the Board cannot fully conduct an inspection or investigation in a timely manner due to an asserted conflict of law, the Board may consider whether the non-U.S. registered public accounting firm should be sanctioned by the Board for non-cooperation. Under the Act and the Board's rules regarding disciplinary proceedings and hearing procedures, before any sanction may be imposed, a registered public accounting firm will have an opportunity to be heard before an independent hearing officer regarding the asserted conflict of law and whether revocation of its registration is an appropriate sanction. The registered public accounting firm's rights under the Act and the Board's rules include appeal of the hearing officer's decision to the Board, appeal of the Board's decision to the Commission and appeal of the Commission's decision to the court of appeals.

To be clear, the Board is not suggesting that it would in all cases commence a non-cooperation proceeding when a firm asserts a conflict of law that cannot be resolved. As previously explained, the Board expects that most conflicts of laws can be resolved by working with the appropriate non-U.S. regulator, through the use of voluntary waivers or consents, or other means. The point is that a rule like PCAOB Rule 2105 is not

[1] The Board hopes to resolve potential conflicts of law as part of its discussions with a non-U.S. regulator under PCAOB Rule 4012 *before* the inspection of a non-U.S. registered public accounting firm.

needed in the context of inspections and investigations because a similar opportunity to be heard is already provided.

Finally, some commenters sought clarification about the participation of ''experts'' who are designated by the Board in inspections where the Board has determined that a high level of reliance is appropriate. The Board expects that the participation of at least one Board-designated expert in U.S. Generally Accepted Accounting Principles, PCAOB standards and other U.S. professional standards and law will be necessary on all inspections of non-U.S. registered public accounting firms. After the Board has conducted initial inspections through the cooperative framework with the cooperation of the non-U.S. regulator, however, the Board may designate an outside expert who is not a PCAOB employee to participate in the inspection.

Rule 5113—Reliance on the Investigations of Non-U.S. Authorities

PCAOB Rule 5113 provides that the Board may, in appropriate circumstances, rely upon the investigation or sanction, if any, of a non-U.S. registered public accounting firm by a non-U.S. authority. The Board's reliance would depend, in part, on the independence and rigor of the non-U.S. authority. Reliance also may depend on the non-U.S. authority's willingness to update the Board regarding the investigation on a regular basis and its willingness and authority to share the relevant evidence gathered with the Board.[2]

Circumstances may require, however, that the Board conduct an investigation relating to the audit work of a non-U.S. registered public accounting firm, or an associated person of such a firm, in connection with the financial statements of an issuer. PCAOB Rule 5113 does not limit the Board's authority under PCAOB Rule 5200 to commence disciplinary proceedings whenever it appears to the Board that such action is warranted.

Some commenters noted that, because PCAOB Rule 5113 does not definitively limit the Board's authority to initiate an investigation or impose sanctions, it poses the risk that a non-U.S. registered public accounting firm may be subject to an investigation and sanction by both the Board and a non-U.S. authority. One commenter suggested that, because of this risk, the Board should limit its authority and defer to the non-U.S. regulator in matters of investigation and sanction.

The Board has declined to change the rule in response to these comments. As explained earlier, the Board's mission is to oversee the auditors of issuers in order to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports. Because non-U.S. regulatory authorities do not have the same mission, restricting the Board's authority to conduct investigations or impose sanctions on non-U.S. registered public accounting firms by deferring to non-U.S. authorities—in every case—would not be consistent with the Board's obligations under Section 105 of the Act.

In any event, the Board does not believe that PCAOB Rule 5113 poses a risk of ''double jeopardy'' for a registered firm. The Board has the authority to investigate and discipline registered public accounting firms only for potential violations of U.S. laws, regulations and professional standards. To the extent that a foreign registered public accounting firm's conduct violates laws in two separate jurisdictions, the foreign registered public accounting firm has chosen to subject itself to the laws of those jurisdictions by choosing to operate in multiple jurisdictions.

That said, as the Board explained in the Briefing Paper, when a non-U.S. disciplinary regime provides for appropriate sanctions of non-U.S. registered public accounting firms and individuals and that regime adequately serves the public interest and protects investors, the Board intends to rely, as appropriate, on the work of the other disciplinary system. Certain circumstances, however, may require the PCAOB to conduct the investigation of a non-U.S. registered public accounting firm relating to its audit of an issuer or to impose sanctions beyond those imposed by the non-U.S. system. In doing so, the Board may consider the sanctions of the non-U.S. system when determining the appropriate sanction in the United States.

Several commenters requested that the Board clarify the meaning of the phrase ''in appropriate circumstances'' in PCAOB Rule 5113 or otherwise provide more detail regarding the circumstances under which the Board would choose to rely on a non-U.S. authority in the context of an investigation. Similarly, one commenter suggested that the Board's approach to inspections and investigations of non-U.S. registered firms should be identical, and therefore that the Board should define the conditions for relying on a non-U.S. authority under PCAOB Rule 5113.

While the request for more detail is understandable, the Board has declined to define the phrase ''in appropriate circumstances'' as the facts and circumstances of any investigation are not predictable. The Board believes it is necessary to preserve a high level of flexibility to decide whether reliance on a non-U.S. authority in an investigation context is in the interest of U.S. investors and the public and would otherwise permit the Board to satisfy its responsibilities under the Act.

In addition, the Board does not believe that its approach to investigations is ''inconsistent'' with its approach to inspections of non-U.S. registered public accounting firms. Investigations and inspections are different in nature and are governed under different sections of the Act and, therefore, warrant different approaches. Investigations, which are addressed by Section 105 of the Act, are premised on a possible violation of U.S. law, regulation or professional standard. Inspections, on the other hand, are governed by Section 104 of the Act and do not involve perceived violations of law. Rather, inspections, the timing of which is mandated by the Act, are designed to review periodically and, where necessary, encourage improvements in, a registered public accounting firm's compliance with the relevant U.S. laws, regulations and professional standards.

Finally, some commenters asked that the Board ensure that non-U.S. registered public accounting firms are afforded certain rights whenever the Board relies on a non-U.S. authority in the context of investigations or sanctions. This comment reflects a misunderstanding about the nature of the Board's ''reliance'' on non-U.S. authorities in the context of investigations and sanctions. With regard to investigations, the Board expects that its participation in an investigation when it ''relies'' on a non-U.S. authority could take one of two forms: the Board will either (1) decline to initiate an investigation of its own and simply rely on the fact that a non-U.S. regulator is conducting the investigation pursuant to its own authority; or (2) initiate an investigation to gather information itself but also accept information gathered by a non-U.S. regulator pursuant to its own authority. In both cases, the non-U.S. regulator is acting pursuant to its own authority, not the authority of the PCAOB or the Act. Therefore, the Board cannot ensure that non-U.S. registered public accounting firms being

[2] Of course, PCAOB Rule 5113 does not apply to investigations or sanctions carried out by the Securities and Exchange Commission.

investigated by a home-country regulator acting under the authority of non-U.S. law are afforded certain rights. The Board can ensure only that registered public accounting firms, including non-U.S. registered public accounting firms, are afforded certain rights with respect to the investigation being conducted by the Board acting pursuant to the authority of the Act and the Board's rules.

In the context of sanctions, the Board's ''reliance'' (if any) on a sanction imposed by a non-U.S. authority could also take one of two forms: the Board will either (1) decline to initiate a disciplinary hearing and impose no sanction of its own, and simply rely on the fact that a non-U.S. authority is sanctioning pursuant to its own authority; or (2) initiate a disciplinary hearing by relying (at least in part) on an investigative record compiled by a non-U.S. regulator that led to a sanction being imposed by that regulator.

In the first scenario, the Board would be ''relying'' on a sanction imposed by a non-U.S. regulator by not imposing a sanction itself. Because no sanction is being imposed by the Board, there is no need for a Section 105(c) disciplinary proceeding.

In the second scenario, the Board would be using an investigatory record compiled, at least in part, by a non-U.S. regulator. In that case, however, the Board has initiated a disciplinary proceeding pursuant to Section 105(c) and the Board's rules. As a result, before the Board imposes any sanction, the foreign registered public accounting firm will be afforded the same rights under the Act and the Board's rules as if the Board had compiled the record itself.

Rule 6001—Assisting Non-U.S. Authorities in Inspections

PCAOB Rule 6001 provides that the Board may, as it deems appropriate, provide assistance in an inspection of a registered public accounting firm conducted pursuant to the laws and/or regulations of a non-U.S. jurisdiction. The rule also provides that the Board may consider the independence and rigor of the non-U.S. system in determining the extent of the Board's assistance.

In response to comments suggesting that the Board adopt a rule reflecting its willingness to assist non-U.S. authorities in their inspection of U.S. firms that audit companies whose securities trade outside the United States, the Board has decided to adopt PCAOB Rule 6001. This rule reflects the Board's previous statements that it is willing to assist in the inspection of U.S. firms that audit or play a substantial role in the audit of public companies in non-U.S. jurisdictions.[3] Because the interests and needs of non-U.S. regulators will differ across jurisdictions, the Board intends to work out the details of its assistance on the basis of discussions with individual regulators.

Some commenters questioned whether the Act confers authority upon the Board to assist in such inspections. Section 101(c)(5) of the Act grants the Board the authority necessary to assist non-U.S. regulators. Section 101(c)(5) provides that ''[t]he Board shall * * * (5) perform such other duties or functions as the Board (or the Commission, by rule or order) determines are necessary or appropriate to promote high professional standards among, and improve the quality of audit services offered by, registered public accounting firms and associated persons thereof, or otherwise to carry out this Act, in order to protect investors, or to further the public interest.''

To satisfy the confidentiality requirements under Section 105 of the Act, the Board intends to establish the necessary and appropriate safeguards so that information gathered through its assistance of non-U.S. regulators is maintained separately from the information gathered during a regular or special inspection under Section 104.

Some commenters requested that the Board require, as a condition of its assistance, that the non-U.S. regulator provide a level of confidentiality for information gathered during inspections comparable to that provided by the Act. Because an inspection by a non-U.S. regulator may be conducted pursuant to the authority of non-U.S. law, the Board cannot require or ensure that the non-U.S. regulator will provide a level of confidentiality comparable to that provided by the Act. The level of confidentiality provided by the non-U.S. regulator will be determined by the level allowed under the applicable law of the non-U.S. jurisdiction.

Also consistent with the Board's previous statements regarding cooperation, PCAOB Rule 6001 reflects the Board's intention to provide a level of assistance that is consistent with the Board's determination regarding the non-U.S. oversight system's independence and rigor. In other words, the Board intends to be available to assist in the inspection of U.S. public accounting firms where, by virtue of their participation in non-U.S. markets, the U.S. public accounting firm is subject to regulation by a non-U.S. independent public oversight system. However, the Board does not believe it would be appropriate to assist non-U.S. professional associations in their reviews of U.S. public accounting firms.

Because the Board does not believe that local regulators of public accounting firms should impede the efforts of foreign regulators who are taking the necessary steps, as determined by those regulators, to meet their objectives and responsibilities, the Board would not take any steps to hinder a non-U.S. regulator's oversight of a U.S. accounting firm that operates in that regulator's jurisdiction, including obtaining information directly from that firm.

Rule 6002—Assisting Non-U.S. Authorities in Investigations

PCAOB Rule 6002 provides that the Board may, as it deems appropriate, provide assistance in an investigation of a registered public accounting firm conducted pursuant to the laws and/or regulations of a non-U.S. jurisdiction. The rule also provides that the Board may consider the independence and rigor of the non-U.S. system in determining the extent of the Board's assistance.

With respect to investigations, the Board would assist, to the extent permitted by law in investigations by non-U.S. authorities of U.S. public accounting firms that audit or play a substantial role in the audit of public companies in non-U.S. jurisdictions.

III. Date of Effectiveness of the Proposed Rules and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Board consents, the Commission will:

(A) By order approve such proposed rules; or

(B) Institute proceedings to determine whether the proposed rules should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the requirements of Title I of the Act. Comments may be submitted by any of the following methods:

[3] *See* PCAOB Release No. 2003–020, *Oversight of Non-U.S. Public Accounting Firms* (October 28, 2003).

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/pcaob.shtml*); or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number PCAOB–2004–04 on the subject line.

Paper Comments

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609.

All submissions should refer to File Number PCAOB–2004–04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/pcaob.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of PCAOB. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number PCAOB–2004–04 and should be submitted on or before August 16, 2004.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–16921 Filed 7–23–04; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3598]

State of New Jersey

As a result of the President's major disaster declaration on July 16, 2004, I find that Burlington and Camden Counties in the State of New Jersey constitute a disaster area due to damages caused by severe storms and flooding occurring on July 12, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on September 14, 2004 and for economic injury until the close of business on April 18, 2005 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Atlantic, Gloucester, Mercer, Monmouth and Ocean in the State of New Jersey; and Bucks and Philadelphia counties in the Commonwealth of Pennsylvania.

Burlington County in the State of New Jersey is also available under Public Assistance and our disaster loan program is available for private non-profit organizations that provide essential services of a governmental nature.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	5.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	2.750
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	4.875
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 359806. For economic injury the number is 9ZL200 for New Jersey; and 9ZL300 for Pennsylvania. The Public Assistance number assigned for New Jersey is P04206.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 19, 2004.

Herbert L. Mitchell,

Associate Administrator, for Disaster Assistance.

[FR Doc. 04–16882 Filed 7–23–04; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4769]

Bureau of Political-Military Affairs; Rescission of Debarment and Reinstatement of Eligibility To Apply for Export/Retransfer Authorizations Pursuant to Section 38(g)(4) of the Arms Export Control Act for Fuchs Electronics (Pty) Ltd

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has fully rescinded the statutory debarment against Fuchs Electronics (Pty) Ltd. (Fuchs), the Fuchs Electronics Division of Reunert Limited, and any divisions, subsidiaries, associated companies, affiliated persons, and successor entities pursuant section 38(g)(4) of the Arms Export Control Act (AECA) (22 U.S.C. 2778) and section 127.11 of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

DATES: Effective July 14, 2004.

FOR FURTHER INFORMATION CONTACT: Robert W. Maggi, Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2700.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA and section 127.7 of the ITAR prohibit the issuance of export licenses or other approvals to a person, or any party to the export, who has been convicted of violating certain U.S. criminal statutes enumerated at section 38(g)(1)(A) of the AECA and section 120.27 of the ITAR. The term ''person'' means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities. The term ''party to the export'' means the president, the chief executive officer, and any other senior officers of the license applicant; and any consignee or end-user of any item to be exported.

The Department of State implemented a policy of denial against Fuchs on June 8, 1994, after an indictment returned in the U.S. District Court for the Eastern District of Pennsylvania charged Fuchs with violating and conspiring to violate the AECA (*see* 59 FR 33811, June 30, 1994).

Fuchs pleaded guilty on February 27, 1997, to violating the AECA. Pursuant to a Consent Agreement between Fuchs and the Department of State, and an Order signed by the Assistant Secretary for Political-Military Affairs, the Department of State statutorily debarred

Fuchs, including the Fuchs Electronics Division of Reunert Limited effective February 27, 1997 (*see* 62 FR 13933, March 24, 1997).

A **Federal Register** notice was published on March 4, 1998 (63 FR 10672) which temporarily suspended the statutory debarment against Fuchs. The Consent Agreement explicitly provided that if the compliance programs or any other parts of the agreement were not fully adhered to, debarment could be re-imposed. The Agreement also stated that the company would establish an internal compliance program and would provide an amount of money equivalent to suspended civil fines to the South African Government to support the effective implementation of its national export control regime.

Section 38(g)(4) of the AECA permits rescission of debarment after consultation with the Secretary of the Treasury and after a thorough review of the circumstances surrounding the conviction and a finding that appropriate steps have been taken to mitigate any law enforcement concerns.

The Department of State has determined that Fuchs (Pty) Ltd has taken appropriate steps to address the causes of the violations and mitigate any law enforcement concerns. Therefore, in accordance with section 38(g)(4) of the AECA and section 127.11 of the ITAR, effective July 14, 2004, the debarment against Fuchs, including the Fuchs Electronics Division of Reunert Limited, is rescinded. The effect of this notice is that Fuchs, and any divisions, subsidiaries, associated companies, affiliated persons, and successor entities may participate without prejudice in the export or transfer of defense articles, related technical data, and defense services subject to section 38 of the AECA and the ITAR.

Dated: July 14, 2004.

Lincoln P. Bloomfield, Jr.,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 04–16589 Filed 7–23–04; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 4744]

Advisory Committee on International Communications and Information Policy Meeting Notice

The Department of State announces the next meeting of its Advisory Committee on International Communications and Information Policy (ACICIP), to be held on Wednesday, August 18, from 9 a.m. until 11:30 a.m., in Room 1406 of the Harry S Truman Building of the U.S. Department of State. The Truman Building is located at 2201 C Street, NW., Washington, DC 20520.

The committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communications services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country issues.

Ambassador David A. Gross, Deputy Assistant Secretary and U.S. Coordinator for International Communications and Information Policy, will attend the meeting together with others from the Office of Communications and Information Policy at the Department of State. Items on the agenda will include Amb. Gross's forthcoming visit to China, issues on the agenda of the October meeting of the World Telecommunications Standards Assembly, reports from the sub-committees of ACICIP, international actions concerning spam, the recent preparatory meeting for Phase II of the World Summit on the Information Society, emerging technologies, and other key multilateral and bilateral issues on the agendas of meetings this fall. Amb. Gross would also like to solicit ideas from ACICIP on current issues facing the telecommunications and information sectors.

Members of the public may attend the meeting up to the seating capacity of the room. While the meeting is open to the public, admittance to the Department of State building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, those interested in attending must provide name, title, affiliation, social security number, date of birth and citizenship to Avis Alston at *AlstonAC@state.gov* no later than 5:00 p.m. on Monday, August 16. All attendees must enter by the 23rd Street entrance. One of the following valid Identifications will be required for admittance: Any U.S. driver's license with photo, a passport, or a U.S. government agency ID. For security reasons, all those attendees who do not have U.S. government agency IDs must be escorted by Department of State personnel at all times when in the building.

For further information, please contact Elizabeth W. Shelton, Executive Secretary of the Committee at (202) 647–5233, or at *SheltonEW@State.gov.*

Dated: July 20, 2004.

Elizabeth W. Shelton,

Executive Secretary, ACICIP, Department of State.

[FR Doc. 04–16972 Filed 7–23–04; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Los Angeles County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Los Angeles County, California.

FOR FURTHER INFORMATION CONTACT: César Pérez, Team Leader—South Region, Federal Highway Administration, 650 Capitol Mall, Suite 4–100, Sacramento, California 95814 Telephone (916) 498–5065.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans) and the Alameda Corridor Transportation Authority (ACTA), will reinitiate environmental studies and prepare an Environmental Impact Statement (EIS) on a proposal to improve State Route 47 (SR–47) in Los Angeles County, California. The proposed improvement would involve replacing the seismically deficient Schuyler Heim Bridge with a new fixed-span bridge and the construction/extension of SR–47 as a new four-lane elevated expressway from the new Heim Bridge along Alameda Street to Pacific Coast Highway (State Route 1). The new fixed-span bridge would change the current vertical and horizontal clearances through the Cerritos Channel. The elevated expressway would provide a direct route from Terminal Island to Alameda Street, resulting in the elimination of five at-grade railroad crossings and ultimately reduce truck traffic on Interstates 710 and 110.

During 2002, Caltrans and ACTA began formal public scoping and initiation of environmental studies for the proposed project. Notice letters were sent to Federal, State and local agencies on January 28, 2002. Notices were prepared in the **Federal Register** and local newspapers, advertising public scoping and open house meetings, on

February 13, 2002, at 2:30 p.m. and 4:30 p.m. respectively. Public comments were received until February 28, 2002. A review of subsequent environmental studies led to FHWA to conclude that an EIS would be required. Budgetary constraints then led Caltrans to temporarily suspend the project.

Major project elements to be evaluated in the EIS include: Replacement of the vertical-lift Schuyler Heim Bridge with a fixed-span bridge; construction of an elevated four-lane expressway to State Route 1; and, potential realignment of surface roads and ramps. The EIS will consider a variety of possible alignments for these improvements, as well as the ''no-build'' alternative.

Letters describing the re-initiation of studies and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed, or are known to have, an interest in this proposal.

Additional public scoping and open house meetings for the Draft EIS/EIR will be held at the Wilmington Senior Center located at 1371 Eubank Ave., Wilmington, California 90745. The public meetings will be held on September 9, 2004, at 2:30 p.m. and 5:30 p.m., respectively. In addition, a public hearing will be held following completion of the Draft EIS/EIR. A public notice will published for the time and place of the hearing. The Draft EIS/EIR will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal program and activities apply to this program)

Issued on: July 20, 2004.

César E. Pérez,

South Region Team Leader, Federal Highway Administration, California Division.

[FR Doc. 04–16918 Filed 7–23–04; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–43–92]

Proposed Collection: Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–43–92 (TD 8619), Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions From Qualified Plans (§§ 1.401(a)(31)–1, 1.402(c)–2, 1.402(f)–1, 1.403(b)–2, and 31.3405(c)–1.

DATES: Written comments should be received on or before September 24, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions From Qualified Plans.

OMB Number: 1545–1341.

Regulation Project Number: EE–43–92.

Abstract: This regulation implements the provisions of the Unemployment Compensation Amendments of 1992 (Pub. L. 102–318), which impose mandatory 20 percent income tax withholding upon the taxable portion of certain distributions from a qualified pension plan or a tax-sheltered annuity that can be rolled over tax-free to another eligible retirement plan unless such amounts are transferred directly to such other plan in a ''direct rollover'' transaction. These provisions also require qualified pension plans and tax-sheltered annuities to offer their participants the option to elect to make ''direct rollovers'' of their distributions and to provide distributees with a written explanation of the tax laws regarding their distributions and their option to elect such a rollover.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, and Federal, State, local or tribal governments.

Estimated Number of Respondents: 10,323,926.

Estimated Time per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 2,129,669.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2004.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–16965 Filed 7–23–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–88–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–88–90 (TD 8530), Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case (Section 1.382–9).

DATES: Written comments should be received on or before September 24, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case.

OMB Number: 1545–1324.

Regulation Project Number: CO–88–90.

Abstract: This regulation provides guidance on determining the value of a loss corporation following an ownership change to which section 382(1)(6) of the Internal Revenue Code applies. Under Code sections 382 and 383, the value of the loss corporation, together with certain other factors, determines the rate at which certain pre-change tax attributes may be used to offset post-change income and tax liability.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,250.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 813.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Commnets

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2004.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–16966 Filed 7–23–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8851

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8851, Summary of Archer MSAs.

DATES: Written comments should be received on or before September 24, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Summary of Archer MSAs.

OMB Number: 1545–1743.

Form Number: 8851.

Abstract: Internal Revenue Code section 220(j)(4) requires trustees, who establish medical savings accounts, to report the following: (a) number of medical savings accounts established before July 1 of the taxable year (beginning January 1, 2001), (b) name and taxpayer identification number of each account holder and, (c) number of accounts which are accounts of previously uninsured individuals. Form 8851 is used for this purpose.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200,000.

Estimated Time Per Respondent: 7 hours, 42 minutes.

Estimated Total Annual Burden Hours: 1,540,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 19, 2004.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–16967 Filed 7–23–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8847

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8847, Credit for Contributions to Selected Community Development Corporations.

DATES: Written comments should be received on or before September 24, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Contributions to Selected Community Development Corporations.

OMB Number: 1545–1416.

Form Number: Form 8847.

Abstract: Internal Revenue Code section 38 allows a credit for contributions to selected community development corporations as part of the general business credit. Form 8847 is used to compute the amount of the credit for qualified contributions to a selected community development corporation.

Current Actions: Old lines 8b and 8i were collapsed into new line 8b. Lines 8j through 8m were renumbered lines 8c through 8f.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 34.

Estimated Time Per Respondent: 6 hrs., 11 min.

Estimated Total Annual Burden Hours: 210.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 2004.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–16968 Filed 7–23–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–100–88]

Proposed Collection: Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–100–88 (TD 8540), Valuation Tables (§§ 1.7520–1 through 1.7520–4, 20.7520–1 through 20.7520–4, and 25.7520–1 through 25.7520–4).

DATES: Written comments should be received on or before September 24, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Valuation Tables.

OMB Number: 1545–1343.

Regulation Project Number: PS–100–88.

Abstract: Internal Revenue Code section 7520 provides rules for determining the valuation of an annuity, an interest for life or a term of years, or a remainder or reversionary interest. Code section 7530(a) allows a respondent to make an election to value an interest that qualifies, in whole or in part, for a charitable deduction, by use of a different interest rate component that is more favorable to the respondent. This regulation requires individuals or fiduciaries making the election to file a statement with their estate or gift tax return.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,000.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Hours: 4,500.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 13, 2004.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–16969 Filed 7–23–04; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–116608–97]

Proposed Collection; Comment Request for Regulation Project; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice and request for comments.

SUMMARY: This document contains corrections to a notice and request for comments, which was published in the **Federal Register** on Monday, June 21, 2004 (69 FR 34421). This notice relates to the Department of the Treasury's invitation to the general public to submit public comments on proposed and/or continuing information collections.

FOR FURTHER INFORMATION CONTACT: Allan Hopkins, (202) 622–6665 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice and request for comments that is the subject of these corrections is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Need for Correction

As published, the comment request for REG–116608–97 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the comment request for REG–116608–97, which was the subject of FR Doc. 04–13958, is corrected as follows:

On page 34421, column 3, under the caption **SUPPLEMENTARY INFORMATION:**, following the paragraph ''*Affected Public*:'' the language

''*Estimated Number of Respondents*: 1.

Estimated Time Per Respondent: 1.

Estimated Total Annual Hours: 1.'' is removed and the language

''The burden for the reporting requirement in this regulation is reflected in the burden of Form 8862, Information to Claim Earned Income Credit After Disallowance.'' is added in its place.

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).

[FR Doc. 04–16964 Filed 7–23–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Office of Research and Development; Government Owned Invention Available for Licensing

AGENCY: Office of Research and Development.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or CRADA Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue NW., Washington, DC 20420; fax: 202–254–0473; email at *bob.potts@hq.med.va.gov.* Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: U.S. Patent No. RE37,770 ''Treatment of Skin Conditions by Use of PPAR.alpha.Activators''.

Dated: July 19, 2004.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 04–16983 Filed 7–23–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Office of Research and Development; Government Owned Invention Available for Licensing

AGENCY: Office of Research and Development, Department of Veterans Affairs.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or CRADA Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue NW., Washington, DC 20420; fax: 202–254–0473; E-mail at *bob.potts@hq.med.va.gov*. Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: U.S. Patent No. 6,187,814 ''Treatment of Skin Conditions with FXR Activators''.

Dated: July 19, 2004.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 04–16984 Filed 7–23–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Office of Research and Development; Government Owned Invention Available for Licensing

AGENCY: Office of Research and Development, Department of Veterans Affairs.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or CRADA Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue NW., Washington, DC 20420; fax: 202–254–0473; email at *bob.potts@hq.med.va.gov*. Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: U.S. Patent No. 6,184,215 ''Treatment of Skin Conditions with Oxysterol Activators of LXR.alpha''.

Dated: July 19, 2004.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 04–16985 Filed 7–23–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Office of Research and Development; Government Owned Invention Available for Licensing

AGENCY: Office of Research and Development, Department of Veterans Affairs.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or CRADA Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue NW., Washington, DC 20420; fax: 202–254–0473; e-mail at *bob.potts@hq.med.va.gov.* Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is:

U.S. Patent No. 6,071,955 ''FXR, PPARA and LXRA Activators to Treat Acne/Acneiform Conditions''.

Dated: July 19, 2004.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 04–16986 Filed 7–23–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; New Routine Use Statement Amendment of System; Notice

AGENCY: Department of Veterans Affairs.

ACTION: Notice; New routine use.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), Notice is hereby given that the Department of Veterans Affairs (VA) is adding a new routine use statement to a VA system of records entitled ''Loan Guaranty Fee Personnel and Program Participant Records—VA (17VA26).'' The new routine use will specify that the names of debarred and suspended Loan Guaranty Program participants can be furnished to the General Services Administration for inclusion on the ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.''

DATES: Comments must be received on or before August 25, 2004. If no public comment is received during the 30 day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, this routine use is effective August 25, 2004.

ADDRESSES: You may mail or hand-deliver written comments concerning the proposed new routine use to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or email to *''VAregulations@mail.va.gov''.* All relevant material received before August 25, 2004, will be considered. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Finneran, Assistant Director for Policy and Valuation (262), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: To ensure that VA Loan Guaranty Program participants are responsible business entities and individuals, VA has authority under 38 CFR part 44 to debar and suspend those entities and individuals that engage in actions detrimental to the best interests of veterans or the Government as provided in 38 CFR 44.305. In order for other Federal agencies to give effect to VA's debarment and suspension actions VA furnishes to the General Services Administration (GSA) the following information: the names and addresses of debarred or suspended parties, the type of action, the effective date of VA's action, and the term of the debarment or suspension. GSA includes this information on the ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs,'' also known as the Excluded Parties Listing System (EPLS), which it compiles and maintains.

Currently VA furnishes information about debarred or suspended parties to GSA under the authority of routine use number 5 of 17VA26 which provides for release of information about participants suspended from the Loan Guaranty Program to other Federal, State, or local agencies. This new routine use has been developed to more specifically provide for the release of information about debarred and suspended parties to the GSA for inclusion in EPLS.

VA has determined that release of information under the circumstances described above is a necessary and proper use of information in this system of records and that the specific routine use proposed for the transfer of this information is appropriate.

An altered system of records report and a copy of the revised system notice have been sent to the House of Representatives Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) and guidelines issued by OMB (65 FR 77677, December 12, 2000.)

The proposed new routine use number 13 will be added to the system of records entitled ''Loan Guaranty Fee Personnel and Program Participant Records—VA'', as published at 40 FR 38095, August 26, 1975, and amended at 52 FR 721, January 8, 1987.

Approved: July 12, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

Notice of Amendment to System of Records

The system of records identified as 17VA26 ''Loan Guaranty Fee Personnel and Program Participant Records—VA published at ''40 FR 38095, August 26, 1975, and amended at 52 FR 721, January 8, 1987, is revised to add a new routine use number 13 as follows:

17VA26

SYSTEM NAME:

Loan Guaranty Fee Personnel and Program Participant Records—VA.

* * * * *

13. The names and addresses of debarred or suspended loan guaranty program participants as well as the effective date and term of the exclusion may be disclosed to the General Services Administration to compile and maintain the ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.''

* * * * *

[FR Doc. 04–16987 Filed 7–23–04; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Monday,
July 26, 2004

Part II

The President

Executive Order 13347—Individuals With Disabilities in Emergency Preparedness

Federal Register
Vol. 69, No. 142
Monday, July 26, 2004

Presidential Documents

Title 3—

The President

Executive Order 13347 of July 22, 2004

Individuals With Disabilities in Emergency Preparedness

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to strengthen emergency preparedness with respect to individuals with disabilities, it is hereby ordered as follows:

Section 1. *Policy.* To ensure that the Federal Government appropriately supports safety and security for individuals with disabilities in situations involving disasters, including earthquakes, tornadoes, fires, floods, hurricanes, and acts of terrorism, it shall be the policy of the United States that executive departments and agencies of the Federal Government (agencies):

(a) consider, in their emergency preparedness planning, the unique needs of agency employees with disabilities and individuals with disabilities whom the agency serves;

(b) encourage, including through the provision of technical assistance, as appropriate, consideration of the unique needs of employees and individuals with disabilities served by State, local, and tribal governments and private organizations and individuals in emergency preparedness planning; and

(c) facilitate cooperation among Federal, State, local, and tribal governments and private organizations and individuals in the implementation of emergency preparedness plans as they relate to individuals with disabilities.

Sec. 2. *Establishment of Council.* (a) There is hereby established, within the Department of Homeland Security for administrative purposes, the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (the "Council''). The Council shall consist exclusively of the following members or their designees:

(i) the heads of executive departments, the Administrator of the Environmental Protection Agency, the Administrator of General Services, the Director of the Office of Personnel Management, and the Commissioner of Social Security; and

(ii) any other agency head as the Secretary of Homeland Security may, with the concurrence of the agency head, designate.

(b) The Secretary of Homeland Security shall chair the Council, convene and preside at its meetings, determine its agenda, direct its work, and, as appropriate to particular subject matters, establish and direct subgroups of the Council, which shall consist exclusively of Council members.

(c) A member of the Council may designate, to perform the Council functions of the member, an employee of the member's department or agency who is either an officer of the United States appointed by the President, or a full-time employee serving in a position with pay equal to or greater than the minimum rate payable for GS–15 of the General Schedule.

Sec. 3. *Functions of Council.* (a) The Council shall:

(i) coordinate implementation by agencies of the policy set forth in section 1 of this order;

(ii) whenever the Council obtains in the performance of its functions information or advice from any individual who is not a full-time or permanent part-time Federal employee, obtain such information and advice only in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation; and

(iii) at the request of any agency head (or the agency head's designee under section 2(c) of this order) who is a member of the Council, unless the Secretary of Homeland Security declines the request, promptly review and provide advice, for the purpose of furthering the policy set forth in section 1, on a proposed action by that agency.

(b) The Council shall submit to the President each year beginning 1 year after the date of this order, through the Assistant to the President for Homeland Security, a report that describes:

(i) the achievements of the Council in implementing the policy set forth in section 1;

(ii) the best practices among Federal, State, local, and tribal governments and private organizations and individuals for emergency preparedness planning with respect to individuals with disabilities; and

(iii) recommendations of the Council for advancing the policy set forth in section 1.

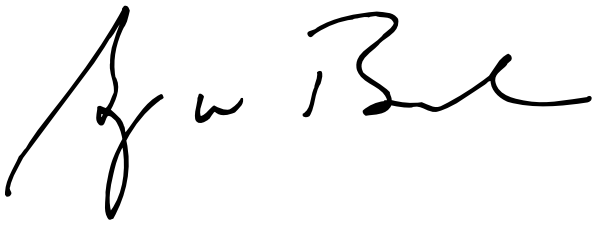
Sec. 4. *General.* (a) To the extent permitted by law:

(i) agencies shall assist and provide information to the Council for the performance of its functions under this order; and

(ii) the Department of Homeland Security shall provide funding and administrative support for the Council.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.



THE WHITE HOUSE,
July 22, 2004.

[FR Doc. 04–17150
Filed 7–23–04; 11:37 am]
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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2003, through January 1, 2004. The CFR volume issued as of January 1, 2002 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2003. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2003. The CFR volume issued as of July 1, 2000 should be retained.

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